CONSERVATION AND MANAGEMENT OF MIGRATORY FISH SPECIES

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

H.R. 2061

THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT REAUTHORIZATION;

H.R. 2841

THE FISHERMEN'S PROTECTIVE ACT REAUTHORIZATION;

H.R. 2842

THE ATLANTIC TUNAS CONVENTION ACT REAUTHORIZATION.

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H.R. 2061, MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT REAUTHORIZATION; H.R. 2842, ATLANTIC TUNAS CONVENTION ACT REAUTHORIZATION; AND H.R. 2841, FISHERMEN'S PROTECTIVE ACT REAUTHORIZATION

THURSDAY, JULY 20, 1989

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:22 a.m., in Room 1334, Longworth House Office Building, the Hon. Gerry E. Studds, Chairman, presiding.

Members present: Representatives Studds, Carper, Hochbrueckner, Solarz, Pallone, Unsoeld, Young, Schneider, Miller, Coble, Saiki, and Herger.

Staff present: Jeffrey Pike, Bill Woodward, Su Sponaugle, Joyce Sacco, Lisa Murray, Sue Waldron, Tom Melius, Rod Moore, and George Pence.

Mr. STUDDS. The Subcommittee will come to order. The Chair apologizes to witnesses and Members, and others. The three meetings that began the day for most of us all ran late, and we apologize for imposing that lateness on everybody else.

OPENING STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. STUDDS. The Subcommittee meets this morning to discuss U.S. policy towards the conservation and management of tunas and other highly migratory species such as swordfish and marlin.

We have before us three bills related to this subject. They are proposed reauthorizations for the Magnuson Fishery Conservation and Management At, the Atlantic Tunas Convention Act, and the Fishermen's Protective Act.

Beyond the language of these specific bills, the central question before us today is whether to maintain America's longstanding position that the U.S. does not recognize the claims of other Nations to extend exclusive management authority over tuna.

That is an old question, but not a settled one. There are those who argue that our current position misreads international law, that it complicates our ability to manage and conserve other highly

migratory species, and that it makes it impossible to manage effectively the tuna resources that are present in U.S. waters.

Others argue that domestic management of tuna is ineffective, that international agreements are essential to conserve tuna, and that the U.S. would be unable to gain access to foreign tuna fishing grounds if we were to recognize the legal right of other Nations to exclude us.

My own primary concern is conservation. Highly migratory species are among the most striking, powerful, and valuable fish in the world. They attract recreational fishermen and commercial fishing fleets from around the globe.

This makes them highly vulnerable to the kind of fishing pressure that has devastated other valuable stocks in the recent past.

I am concerned that we may not be doing all we can within the existing system, especially with respect to the conservation and management of swordfish, and yellowfin and bluefin tuna.

I think we need to explore every option we have under ICCAT, under the Magnuson Act, and under possible amendments thereto, to achieve greater conservation of these highly migratory fish.

In addition, I hope we will use this morning's hearing to re-examine the scope of the Fishermen's Protective Act. Today, this law provides protection and compensation for fishermen seized or detained by foreign countries in a manner inconsistent with our view of international law.

Historically, the Act has been used almost solely by distant water tuna fishermen and some shrimpers. In light of recent events involving the U.S. maritime boundary with Canada, we may want to consider expanding the reach of that program to ensure fair treatment for all our fishermen.

The issues we will discuss today are controversial and complex. Fortunately, our witnesses are all diplomats, either by nature or profession, and each is blessed with the ability to speak clearly, and, above all, concisely, about complicated subjects.

Mr. STUDDS. The gentleman from Alaska, speaking of concise and clear, and diplomacy.

Mr. YOUNG. Mr. Chairman, first, let me ask unanimous consent to put Mr. Saxton's statement in the record at this time.

Mr. STUDDS. Without objection.

[The statement of Mr. Saxton follows:]

STATEMENT OF HON. H. JAMES SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY

Thank you, Mr. Chairman, for holding this hearing today. I look forward to hearing from the witnesses on the topic of tuna conservation and management. In particular, I am most interested in any of their comments regarding the potential effect of including or excluding tunas under the Magnuson Act on swordfish conservation and management—especially in light of the Fisheries Management Council's proposed 78% reduction in commercial swordfish harvest levels.

I am concerned about the degree and extent of international cooperation with regard to conservation and management of highly migratory species such as tuna and swordfish. I look forward to working with my colleagues on this Subcommittee on these important issues as we try to improve and further the goals of the Magnuson Act.

OPENING STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA

Mr. YOUNG. Mr. Chairman, I also welcome the witnesses. I have a written statement that I will submit for the record.

I hope, though, on this hearing, as we go forth—and I know the desires of many of the Council members is to have control over the tuna fleet—but it is a major part of our fishing economy, and it is one of the safest and most modern fishing fleets in the world.

And unfortunately, many in the Congress have a bad habit of blaming our tuna fishermen for everything that goes wrong, from killing porpoises to reducing swordfish catches. I think it is time that we recognize this is one industry that has put a tremendous amount of work—at the urging of Congress, I will have to admit that—into the ability to catch tuna without doing harm to other species.

I believe we can work together and solve some of the concerns of the councils, trying to make sure that we do not destroy our tuna fleet abroad. One of the things we have to recognize is that if we were to somehow pass legislation that would put the tuna fleet under our control, within our waters, then in fact our distant water tuna fleet would be under the control of other countries, and thus, that migratory fish would have a tremendous amount of pressure, and accidental catches would probably occur more rapidly off our shores than it does right now.

So we have to work to solve that problem, but let's not destroy our tuna fleet in the process.

[The statement of Mr. Young follows:]

PREPARED STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA

Mr. Chairman, I join you in welcoming the witnesses to another of our continuing hearings on important fisheries issues.

Mr. Chairman, I know that much of the discussion today will involve a question that has been before this Committee many times in the past: Should the U.S. change its position on tuna management and claim jurisdiction over tuna in our 200-mile zone? Now, I always attend hearing with an open mind, because I think the witnesses have a great deal to tell us. Frankly, however, on this issue, it will take a lot of good arguments to convince me that our tuna policy should be changed.

Our tuna fleet is a major part of our fisheries economy; not only that, it is one of the safest and most modern fishing fleets in the world. Unfortunately, this Congress has a bad habit of blaming our tuna fishermen for everything that goes wrong, from killing porpoises to reducing swordfish catches. It think it is time that our tuna fishermen get some of the positive recognition they deserve.

I know that there are problems in some of the east coast fisheries, and I am interested in working on those with you. However, the answer to the problem should not be "let's destroy our distant water tuna fleet." I think there are other solutions that can and should be explored. Our Committee has always defended our traditional tuna policy, and I see no reason to stop now.

Like all fisheries issues, this is a tough one. I suggest we work together and find an answer that's good for the fish and the fishermen. Thank you.

Mr. STUDDS. Does any other Member have an opening statement?

[No response.]

Mr. STUDDS. If not, we will proceed to our first panel, Ambassador Wolfe, and Mr. Carmen Blondin of NOAA. if you folks will come up.

While you are arranging yourselves, let me just say to both of you: We understand that yesterday, law-enforcement officials from NOAA, Coast Guard, and Customs were successful in—I guess you

still have underway—a "sting" operation in the Northern Pacific, breaking a ring of Taiwanese smugglers illegally trafficking U.S. salmon, attempting to sell them in this country.

Mr. YOUNG. Mr. Chairman.

Mr. STUDDS. The gentleman from Alaska.

Mr. YOUNG. I want to compliment both Mr. Wolfe and Mr. Blondin on that effort. I would suggest at this time, though, that we have to pursue it further than even the Coast Guard is doing. If you read even the Post, which I cannot stand——

Mr. STUDDS. I did not mean to upset the gentleman before——

Mr. YOUNG [continuing]. If you read that paper, if you read the paper this morning, and the idea that they were ramming one of our ships, that they were throwing nets overboard—I think it is time that Taiwan is told to get out of the Time magazine, quit advertising that propaganda they are presenting to the United States, and start admitting to the fact they are a bunch of pirates.

Mr. STUDDS. As I was saying about diplomacy, let the record reflect the gentleman's knife has just been re-sheathed.

[Laughter.]

Mr. STUDDS. I intended to say I concur with the gentleman's congratulations—not only congratulations to the agencies but assurances of the support of this Committee, and whatever steps are necessary to see this kind of activity is stopped. This is not the time to go into this in detail, but I understand this is a major operation, there are some risks attendant to all involved, and just be aware of the fact that we are following it very closely, and are fully supportive.

Mr. MILLER. Mr. Chairman.

Mr. STUDDS. The gentleman from Washington.

Mr. MILLER. If you will just yield for 10 seconds. Not only the gentlemen and the agencies that they represent should be committed, but the National Marine Fisheries Service.

Mr. STUDDS. Well, they are here, sort of. That is Mr. Blondin.

Now, I understand that you both agreed to "try the impossible," to keep your oral statements to five minutes. If you can do that, we would appreciate it. Your written statements will appear in full.

Ambassador Wolfe, welcome back.

STATEMENT OF A PANEL, CONSISTING OF AMBASSADOR EDWARD WOLFE, DEPUTY ASSISTANT SECRETARY FOR OCEAN AND FISHERIES AFFAIRS, DEPARTMENT OF STATE; AND CARMEN J. BLONDIN, DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Ambassador WOLFE. Thank you, Mr. Chairman.

Let me say that I am happy to be here, as unusual. You are aware that the Department of State has a long history, spanning several decades, of close involvement in international efforts to conserve and manage highly-migratory species of tuna around the world.

Our involvement in international tuna issues originates from two principal factors. One is that the Department is involved in international tuna issues because of foreign policy issues.

We believe it is important for us to negotiate agreements with other countries regrading the activities of our fleet to avoid foreign policy problems.

The second factor is that the U.S. has a large and economically valuable tuna industry which is very much a part of the international fisheries world.

I do not have to go into detail, but you know that I am talking about areas such as the Eastern tropical Pacific, South Pacific Ocean, and certainly the Atlantic. The U.S. tuna industry continues to be one of the Nation's most valuable fishing industries, and the U.S. has an interest in maintaining a strong U.S. fishery.

It is important for us to be engaged in international efforts, to conserve and manage tuna fisheries in which our fishermen are involved, and to try and establish reasonable and equitable arrangements for access to these fishery resources for our own fishermen.

Very briefly, let me describe the status of international agreements and negotiations on tuna, and I will be very brief because my testimony will be provided for the record, as you pointed out.

In the South Pacific, we have concluded a treaty with 16 Pacific Island nations. The treaty sets forth the terms and conditions by which our U.S. vessels have access to over 10 million square miles of ocean in the South Pacific.

I will not go into the details as I have addressed this agreement before this Committee, and others, in the past. But I would point out, and reiterate, that the successful conclusion of this treaty was one of—in the opinion of the Department—our major successes in international fisheries in recent years.

The treaty resolved a major foreign policy problem for the U.S. and has laid the groundwork for an excellent, long-term fisheries relationship between the U.S. and South Pacific nations.

In the eastern Pacific, we have undertaken efforts to create a broadly-based conservation and management organization for tuna of the region. It has not been as successful as the South Pacific. We have not given up. We have recently entered into formal talks with the Government of Mexico, and we are hopeful this will lead to some type of multilateral regional accord in that area.

In the Atlantic, there is a growing U.S. commercial longline fishery for tuna. We are aware this operates both within and beyond the U.S. Exclusive Economic Zone.

The principal reason, Mr. Chairman, why tuna is the most internationally-oriented fishery in the world is due to the highly migratory nature of the resource. This scientific fact cannot be overemphasized, and I will not go into any more detail because my statement is complete with that.

But I would give you the example, in the eastern Pacific Ocean where yellowfin tuna resources travel through the 200-mile zones of nearly a dozen nations, and thousands of miles out to sea.

The situation is similar in the Atlantic, where it is clear that all of the tuna stocks migrate great distances throughout the ocean, and are not resident to the coastal areas of any particular nation.

The fact that tuna resources are highly migratory does not mean that coastal countries, including the United States, do not have local fisheries for tuna, or a special interest in tuna fisheries which

do occur inside 200 miles. It does, however, mean that stocks cannot be managed or conserved by any single country.

Effective conservation measures for tuna are impossible for a single coastal nation. We are not aware of any coastal nation in the world, which has ever attempted and been successful in implementing unilateral conservation measures for tuna.

It is for this reason, Mr. Chairman, that the Department of State does not support any change in the Magnuson Act to include jurisdiction over tuna within the U.S. EEZ. The lack of extended jurisdiction over tuna is consistent with our view and the scientific realities of the situation.

Even if this view represents a minority opinion, as it very well may, that does not mean that it is not a correct position or that it should not be the U.S. position.

The final point on the question of extended jurisdiction is that there are virtually no foreign fisheries for tuna in the U.S. zone.

In our Atlantic EEZ, for the past several years, two or three Japanese longliners have fished under stringently-regulated conditions. There have been no foreign tuna fisheries for a number of years in the U.S. zone in the Gulf of Mexico, Caribbean, Pacific or Western Pacific.

Furthermore, we do not believe an effective case can be made that our position on tuna has seriously impacted U.S. management effort over billfish or other species in our zone over which we exercise jurisdiction.

In our view, the argument over tuna management in the U.S. zone does not involve a conservation issue or a foreign-fishing problem, but, rather, is a domestic user-group question involving the competing interests of recreational and local commercial U.S. fishermen.

Last year, Mr. Chairman, we conducted a review of U.S. tuna policy at the Department of State, with particular emphasis on the effect of this policy on U.S. foreign policy interests.

We concluded that the foreign policy problems associated with the U.S. tuna policy arise mainly as a result of trade embargoes we impose pursuant to U.S. law.

This is one aspect of the Magnuson Act which we would like to see changed. In that regard, as you know, section 205 of the Act provides for what is essentially a mandatory embargo on the fishery products of any nation which seizes a U.S. vessel because of a claim of jurisdiction not recognized by the U.S. We would like to suggest that Congress consider modifying section 205 to make the imposition of the embargo discretionary rather than mandatory.

And one side note. The embargo is and has been an effective tool in negotiations, and we would like to have the discretion, when it is in the Nation's best interest, to use this tool, or not to use it.

The Fisherman's Protective Act is another element of our worldwide tuna policy which the Committee has asked us to address.

One aspect of the Act which the Department is opposed to is the continuation of section 5, which requires us to seek reimbursement for compensated claims from the nation which seized the vessel in question.

We are convinced that the FPA needs to be rewritten and modified. We would of course be interested in working with the Congress and the fishing industry to explore what might be possible.

This effort could take some time to complete, so we believe the FPA, which, as you know, expires in October, should be extended for one more year in its present form.

There have been few vessel seizures within recent years, and we believe that the practical consequences of this extension, of continuing the Act, will be minimal.

And finally, with regard to reauthorization of the Atlantic Tunas Convention Act, ICCAT, we think it has been an effective international management organization for tuna, and we support the reauthorization of the Act.

As a result of this ICCAT program, the Japanese catches of Western Atlantic bluefin have been reduced some 90 percent from previous levels.

We have reviewed the draft bill, 2842, which would amend and reauthorize the Convention Act and have no objection to this legislation.

Thank you, Mr. Chairman. I hope I made it within the time slot, and would be happy to answer any questions.

[The statement of Ambassador Wolfe can be found at the end of the hearing.]

Mr. STUDDS. You certainly did. I appreciate that, even without the benefit of those wretched lights that are not here. Mr. Carmen Blondin. Welcome back, Mr. Blondin.

STATEMENT OF MR. BLONDIN

Mr. BLONDIN. Thank you. Mr. Chairman and Members of the Subcommittee, it is also a pleasure to appear before you on behalf of the Department of Commerce.

Mr. STUDDS. Would you pull one of those mikes a little bit closer. Thank you. Mr. Young is getting older, and it is more difficult for him to hear. Thank you.

Mr. BLONDIN. I am probably getting older as well, and am speaking a little more lightly than I did when I served in the Coast Guard, too, sir.

I will begin by first addressing U.S. tuna policy and U.S. participation in the International Commission for the Conservation of Atlantic Tunas (ICCAT).

I think, Mr. Chairman, as you indicated, that the management of highly migratory species has certainly been controversial over the last 30 years. This debate has grown more intense in recent years because as more and more countries extended jurisdiction, it brought into question the matter of the policy by the United States.

Advocates of international management agree, however, that a single regime throughout the range is the only completely effective means of managing these species. But certainly, on the other hand, advocates of extended jurisdiction point out that international management has failed to take into account coastal state considerations, and, in many instances, has failed to successfully manage these species.

I hope, as we go into this, that we can point out that while management may be slow, internationally, I think that progress is being made.

Mr. Chairman, as you know, the Congress, in the Magnuson Act, defined tuna as a highly migratory species which is subject to coastal state jurisdiction. Other species, such as billfish, swordfish, and sharks, are not treated as highly migratory species under the Act, and are subject to the fishery management authority of the United States.

U.S. tuna policy has recognized that effective conservation and management of such species throughout their range can only be achieved through international regimes with the authority to ensure application of conservation measures in broad ocean areas.

In the Atlantic Ocean, the United States pursues the need for coordinated international management of tuna through ICCAT. Under the provisions of the Convention, ICCAT was established to maintain the populations of tuna and tuna-like species at levels sufficient to permit the maximum sustainable catch for food and other purposes.

The Commission has acted responsibly in using the data collected by its scientific body, the Standing Committee on Research and Statistics, to recommend regulatory actions over the species, where sufficient data exist[s].

The United States has been an active participant in the development of the Commission's recommendations, and I think, Mr. Chairman, as you know, I have been personally involved, over the past several years, in carrying forward the U.S. positions to ICCAT as the Federal Commissioner.

Since 1972, the Commission has adopted recommendations for three species of tuna—yellowfin, bigeye, and bluefin—based upon its interpretation of the scientific data available.

The bluefin recommendations, which were prompted by declining trends in the early 1970's, establish a total scientific monitoring quota of 2,660 metric tons. The U.S. share is 1,387.3 or roughly 52-plus percent. The Canadian share is 573.3 metric tons, roughly 21.5 percent of the share, and the Japanese share is 699.4 metric tons, which is roughly 26.3 percent. No directed fishing for bluefin tuna may occur in a spawning area such as the Gulf of Mexico.

In other areas, where recommendations have not been adopted, efforts continue to improve stock assessment. In 1986, the Commission approved a stock assessment program and budget initiated by U.S. concerns over the deficiencies in the data base for billfish stocks.

This program, for the last 2 years, has been completely funded by private-sector fishing organizations. The U.S. sport fishing community pioneered this creative funding solution, given the severe fiscal constraints that currently plague ICCAT.

Under the Atlantic Tunas Convention Act of 1975, NOAA Fisheries has promulgated regulations, requirements, enforcement procedures, and gear restrictions to implement Commission recommendations. Considerable effort has been expended to promote the broadest possible access among domestic users to the bluefin fishery where catch quotas exist.

In conjunction with its effect in the restoration of stocks in the western Atlantic, the ICCAT conservation program for bluefin tuna has served to reduce significantly—as has been pointed out by Ambassador Wolfe—the catch of bluefin tuna in this area by Japanese longline vessels. Japan's allowable catch of bluefin tuna in the western Atlantic is less than 14 percent of its 1975-1979 average. Effective control of this longlining would not have been possible without the ICCAT program. Given the highly migratory nature of the Atlantic bluefin tuna, U.S. jurisdiction over the species could not address unrestricted Japanese fishing on the stock outside 200 miles, or for that matter, any other country's fishing.

Mr. Chairman, with respect to H.R. 2841, a bill to amend section 7, of the Fishermen's Protective Act, which authorizes a self-insurance program for the distant water fleet, the Department of Commerce defers to the Department of State as the agency responsible for the operation of this program. Other than that, we certainly associate ourselves with the comments made by Ambassador Wolfe. Thank you, Mr. Chairman.

[The statement of Mr. Blondin can be found at the end of the hearing.]

Mr. STUDDS. You are done?

Mr. BLONDIN. I am done. Yes, sir.

Mr. STUDDS. I apologize. The tension was so great, I did not want to break it.

Mr. Wolfe, you say that our position, the U.S. position on tuna has not hurt our efforts to manage billfish, and you go on to describe the dispute over tuna management as simply a disagreement between commercial and recreational fishermen over the allocation of fishing rights.

I agree that the allocation problem is serious, but your statements are otherwise—as I am sure you know—directly contradicted by the testimony of the management councils, and by Mr. Hinman, who will follow you.

Are you really saying that the tuna exemption has not and will not affect our ability to manage longline fishing for other highly-migratory species?

Isn't that really precisely why the swordfish plan was rejected?

Ambassador WOLFE. What I am saying, Mr. Chairman, or what I will say, is that it is our opinion, State Department, that the U.S. position on tuna has not hurt the billfish management plan, as you refer to it.

I think that the tuna position has had no significant impact on billfish management. Just give me 30 seconds to explain that.

I will admit that the position on tuna has created some difficulties for the councils in terms of management, by making reasonable opportunities for longliners to fish for tuna.

There are area closures, observers, and permit requirements, but I believe that these minor inconveniences, or problems, if you will, in no way warrant or justify a change in a policy that has been successful. It has been recognized that conservation and management can only be achieved internationally, and we continue to support that. There is an inconsistency. Let me say that for the record—I think that was one of the points that you made—though my understanding is that the original intent of the 200-mile law

was to exclude from U.S. jurisdiction all highly-migratory species of fish.

You were involved in that process, and Mr. Young, and others. A modification was made to include billfish and sharks within U.S. jurisdiction. In summary, so there is an inconsistency, but I do not think there is enough of a difficulty, at least in terms of the way we perceive it, to warrant any type of change to a policy that is soundly based scientifically, has assisted in foreign-policy efforts, and certainly has been conserving and managing——

Mr. STUDDS. Well, I will pursue that further, with Mr. Blondin, in a moment, but I guess your years at the State Department have strengthened your ability to live with inconsistency. That it does not bother you a great deal.

Let me ask you some questions on tuna and foreign policy for a moment, if I may.

How do you defend the principle that coastal nations do not have the right to exercise management authority over tuna, but they do have that right with respect to all other migratory species.

This is, I guess, the inconsistency to which you just referred. No matter how much sense that might make, politically, or even economically, which I think was in part what you were saying—aside from the inconsistency, is it legally defensible to make that distinction?

Ambassador WOLFE. Well, coastal States certainly have the opportunity to—as you point out—exercise management authority, and that is not to say that the United States would not have that opportunity, under appropriate conditions, to exercise our management authority.

There is an inconsistency, but the consistency, in my mind, is that the management and the conservation go hand in hand. We found that with countries that do manage tuna, or attempt to manage tuna, there is no meaningful—actually, no conservation regime at all, and we think they need to go hand in hand.

Mr. STUDDS. That is interesting, because that focuses on what works, rather than on the law.

Ambassador WOLFE. Well, I think that our position in terms of the law is certainly clear in our minds. Under the Law of the Sea, our responsibility to manage, internationally, and to conserve, internationally.

Just as I pointed out in my testimony, Mr. Chairman—just because we are in the minority, that, in our opinion, does not mean that our position is an incorrect one.

Mr. STUDDS. Is it a fair statement of your position, that our legal position on tuna has helped our fleet gain access to foreign grounds, and that the main reason for this is that other nations know that we will embargo tuna from any country that seizes one of our vessels. That is essentially your position, is it not?

Ambassador WOLFE. I think it is a fair statement to make. That without the juridical position and the corresponding embargo provision, that we would not have an agreement in the South Pacific with 16 Pacific island nations today.

Mr. STUDDS. Well, what effect would the inclusion of tuna within the Magnuson Act have on our ability to maintain current, and to

negotiate new international agreements guaranteeing U.S. tuna fishermen access to foreign waters?

Ambassador WOLFE. What effect would inclusion of tuna within 200 miles?

Mr. STUDDS. Yes.

Ambassador WOLFE. As I pointed out, it is our opinion that these two areas—the conservation area and the management area go hand in hand—and if you are going to have an effective conservation program, internationally, as we all agree and the Law of the Sea points out, then there should also be international management which has been successful, as pointed out by Mr. Blondin and pointed out by myself, through ICCAT and other organizations.

I am not saying that it is not a possibility. I am just saying that right now, our position is that we need that negotiating leverage for upcoming agreements in Central America. We have used it effectively, and the U.S. juridical position and corresponding embargo provisions have been a helpful tool. They have been instrumental in bringing this agreement about in the South Pacific.

Mr. STUDDS. I understand your position. Let me just say, as I said at the beginning, that one of my principal concerns is precisely that we are not, apparently, adequately protecting some stocks at this point, including the bluefin tuna on the Atlantic Coast, and some of the other billfish.

Let me go to Mr. Blondin for a moment. Back to the tuna exemption, and our efforts to manage the longline fleet.

Mr. Hinman, who will speak later, says in his prepared statement, that the exemption has made it impossible to manage billfish effectively, and that in fact more billfish are being killed by tuna longliners than are landed by all U.S. recreational fishermen combined.

The council's statement, not surprisingly, cited your agency's rejection of the proposed swordfish plan, as proof that the tuna exemption interferes with their efforts to manage billfish.

What I am trying to understand is what our management options are under existing law, and under possible amendments, either to the Atlantic Tunas Convention Act, or to the Magnuson Act itself.

In NOAA's judgment, do the councils have the legal authority to manage billfish, and to impose conservation measures on the longline fleet for that purpose?

Mr. BLONDIN. Mr. Chairman, I think it is clear that we certainly agree that the management councils have the authority to manage the take of swordfish and billfish.

The question of longline involvement, the matter of by-catch, has always been a very difficult one. Obviously, in trying not to constrain the rights to fish tuna, it has presented some anomalies. I think that this is being worked out.

While it might have been a problem in years past, I am not sure, because of the numbers of foreign vessels that now operate in our zone, that it represents a real problem.

The problem, if any, that we now have in managing swordfish and billfish, is one of not only a large growing fleet of American longline vessels, but, as well, foreign longliners that operate outside of the U.S. 200-mile zone in the Atlantic.

And in this regard, even this week, the ICCAT commissioners met with the key people of the five Atlantic management councils to develop a coordinated effort.

First of all, let me say that from the standpoint of who has the overriding policy direction, it is the view of the U.S. commissioners that with respect to swordfish and billfish, that at the moment, it belongs with the management councils, and we will do everything in our power to coordinate the international aspects.

Obviously, from what we know of the nature of billfish and swordfish, they do go outside of our 200-mile zone, and it is important for us to have effective management throughout the range of those species.

Mr. STUDDS. Well, let me ask you a couple of quick things. My time has long gone.

Mr. BLONDIN. Yes, sir.

Mr. STUDDS. The Atlantic Tunas Convention Act authorizes the Secretary of Commerce to regulate tuna fishing, including limiting the size and quantity of fish, establishing closed areas and other measures.

Is it NOAA's position that these conservation measures can only be imposed if they are required by ICCAT? That is, the Secretary cannot unilaterally impose conservation measures beyond those required by ICCAT?

Mr. BLONDIN. Mr. Chairman, I think it was the view of our lawyers that looked at this, and the view of the Department of Commerce, that we could not, because of the legislative history of the Atlantic Tunas Convention Act—be more constraining than the recommendations of ICCAT.

Mr. STUDDS. That is yes.

Mr. BLONDIN. Let me express this in the sense that, in other words, if the quota for the United States was set at "x" amount, that we could not take half of "x" and use this as the U.S. quota.

On the other hand, I believe that there is some flexibility within the recommendations of ICCAT, that perhaps we could take more effective management measures. And let me give you an example of that.

At the moment, we are wrestling with a large take of small fish. We are very much concerned because the numbers of small bluefin tuna that are being taken exceeds what we had in the past.

We are now looking at the idea of shifting within the user group the quotas which might allow the United States to still have a quota that is set by ICCAT, but yet, in the small fish category, take fewer fish than we did in the past.

Mr. STUDDS. Is it your position that you can take some kinds of measures, even if they are not required by ICCAT—whether it is reporting requirements, or gear restrictions, logbooks, whatever—or does it have to be an ICCAT requirement in order for you to have the authority to insist on it?

Mr. BLONDIN. With respect to tuna, I think it is our view that those recommendations should come out from ICCAT.

Mr. STUDDS. Must, or should? Do you have authority to do anything other than that, in your view?

Mr. BLONDIN. In our view, the concern is because of the nature of the legislative history of that Act, that the Congress intended that we be not more constraining than the ICCAT measures.

Mr. STUDDS. Yes. You said that before.

Mr. BLONDIN. I know it is circuitous, and I am sorry to answer this way, but that is the dilemma we are faced with.

Mr. STUDDS. What? The dilemma is the inability to say yes or no?

Mr. BLONDIN. The inability to say an "I wish." in most other cases, we can say that we, because of legislative history, and the legislation is clear, to give us broader authority to be more conservation-minded. But the legislative history in the case of this Act seems to indicate that the Congress wanted to ensure that American fishermen were not placed under more constraining measures than the international——

Mr. STUDDS. I thought my question was clear. Maybe Mr. Young's aging process is contagious. I am not sure.

But I simply wanted to know whether it is the view of your Department, that you can impose any kind of a requirement, whether it is a reporting requirement, the maintenance of logbooks, or whatever, in the absence of a specific such requirement from ICCAT.

Do you have the authority to do anything that is not specifically mandated by ICCAT?

Mr. BLONDIN. We may be able to do this, but not under the ICCAT Act. Under our general fisheries management authority.

Mr. STUDDS. Right.

Mr. BLONDIN. That is what we have tried to do in other areas.

Mr. STUDDS. "No" is the——

Mr. BLONDIN. "No" is the answer under ICCAT. "Yes," if we had it somewhere else.

Mr. STUDDS [continuing]. Abbreviated response. OK. That is what I was trying to get. So, in other words, the message to us is clear. If the Congress wants to change that, we are going to have to amend some law, that you can come back here and talk about different legislative history. That is all I wanted, really, to know.

One other question. Do you agree with Mr. Hinman that we have a problem? That is, the bluefin tuna and swordfish are being severely overfished, and that there is a serious risk that this could happen to other species in the near future?

Mr. BLONDIN. Well, Mr. Chairman, I think it is clear that there is a considerable amount of fishing that has gone on with bluefin. Hopefully, we have arrested that.

Looking at data that were newly presented yesterday to the U.S. Commissioners, I think we are seeing improvements in the small and medium-fish categories.

Mr. STUDDS. Do we have serious overfishing of those stocks at the moment?

Mr. BLONDIN. There is not overfishing in the sense of going beyond the ICCAT quota.

Mr. STUDDS. That was not my question. Do we have a serious problem, a simple common-sense problem? Are we fishing too severely on those stocks? Are they in trouble?

Mr. BLONDIN. If we are talking now about swordfish, which is not regulated at the moment, internationally, I think the answer is yes.

Mr. STUDDS. My question was with respect to swordfish and tuna. Both.

Mr. BLONDIN. Well, I think that with respect to tunas, we have it under control. With respect to swordfish, hopefully, we will get it under control.

Mr. STUDDS. Which is to say at the moment, it is not under control?

Mr. BLONDIN. Swordfish is being overfished.

Mr. STUDDS. Thank you. I mean, we could have saved us all a lot of time, if you had said that in the first place. It was a very direct question.

Tuna, in your judgment, on the East Coast, is not in trouble, is that correct?

Mr. BLONDIN. Well, we have to work hard at it. I think that bluefin is not out of the woods yet. The large fish category still shows signs of going down, and, hopefully, it is just leveling off, but I think in all other categories we are seeing slight increases. My conclusion would be that the management is working.

Mr. STUDDS. I apologize to my colleagues for taking so much time. It was not all my fault, as you saw.

The gentlelady from Hawaii.

Mrs. SAIKI. You just addressed the Chairman's question involving tuna in the Atlantic. How about the Pacific?

Mr. BLONDIN. Well, I think that if the question relates to overfishing of tunas in the Pacific, I have not looked at the data because it is not an area of my responsibility since I am the Atlantic Tunas Commissioner.

I think, for the record, we can certainly come back in with something more definitive for you. I am sorry that I do not have something more definitive.

Mrs. SAIKI. Can I ask, then, that that information be submitted to the Committee, and to the Chairman?

Mr. BLONDIN. Yes.

Mrs. SAIKI. Thank you.

[The information of Mr. Blondin follows:]

Assessments on the tuna stocks in the eastern tropical Pacific are developed by the Inter-American Tropical Tuna Commission (IATTC), which meets annually. At it's May 1989 meeting, which was held in Paris, it was the view of Commission scientists that the stocks of tuna in the eastern Pacific are in a very healthy condition.

Mr. STUDDS. Are you folks sitting in the order you are supposed to be over there? Is somebody cheating? Where is my list here? You might have confused the Chairman, which is easily done. The gentleman from Delaware. There you are. You are next.

Mr. CARPER. I arrived a bit late. Let me just defer to those who have been here a bit longer than I.

Mr. STUDDS. A genuine gentleman from Delaware. The gentleman from New York.

Mr. HOCHBRUECKNER. I have no questions at this time, Mr. Chairman.

Mr. STUDDS. The other gentleman from New York. Mr. Solarz.

Mr. SOLARZ. Mr. Chairman, I am going to leave you flabbergasted. I have no questions either.

Mr. STUDDS. I think we should adjourn, or at least have a moment of silence. There is no precedent, of any kind, for this.

[Laughter.]

Mr. STUDDS. The gentleman from New Jersey. I am going to tell the Foreign Affairs Committee what just happened.

[Laughter.]

Mr. STUDDS. The gentleman from New Jersey.

Mr. PALLONE. Thank you.

Mr. STUDDS. Oh, I am sorry. Forgive me. There is, despite our best efforts, the loyal minority. The gentleman from California.

Mr. HERGER. [No response.]

Mr. STUDDS. Thank you. I apologize. The gentleman from New Jersey.

Mr. PALLONE. Thank you. I guess I am following up on what the Chairman just asked, in a different sense, perhaps.

I am not sure I understand what would happen if tuna was brought under the Magnuson Act. In other words, right now, the International Commission establishes quotas, and those, Mr. Blondin, are carried out domestically by National Marine Fisheries Service, and then, my understanding is that they are for different types of fishing, and when the quotas run out, then we close down the season, basically.

If tuna was under the Magnuson Act, as has been proposed by some groups—particularly recreational groups—how would that operate?

In other words, would the International Convention still set the quotas, but then management councils would set more stringent standards? I am just wondering how it would work.

Mr. BLONDIN. Well, I think it would be a much more complicated system, and much the way we are trying to develop swordfish management measures now, internationally, as well as domestically.

I think what would happen, first, is that the management councils would take the first action, set a direction so that we knew the direction that the United States was moving from a policy standpoint, and, then the International Commissioners would have to go out and negotiate that at the international level.

It would be much more complicated. At the current time, with tuna, we discuss this at ICCAT, and we come back with quotas that affect the United States, and then this is moved into the domestic arena, as you pointed out, through regulations of the National Marine Fisheries Service.

If we were to go in the opposite direction—and, for example, this is what we are looking at now with swordfish—it would take, first, action by the councils, and we would try to—for example—take the quota within the 200-mile zone and look at that from an international standpoint throughout the entire Atlantic, try to set a quota that would match that, internationally, and hope that in the negotiating process we would still end up with what the United States would hope for as its share within its 200-mile zone.

Mr. PALLONE. Now, is that currently the case with some of the other countries? It is my understanding, that with the exception of

the United States, and I guess with The Bahamas, the other countries do regulate tuna within their 200 miles.

Is that how the other major nations that are involved in tuna fishing operate? They basically set the quotas in their own 200-mile zone, and then, as part of the International Commission——

Ambassador WOLFE. Could I just make a quick response to that comment? If I could, Mr. Congressman. The major tuna fishing, distant water countries in the world are, of course, the U.S., the Japanese, the Koreans, none of whom manage tuna within their own 200-mile zone nor recognize jurisdiction over tuna out to 200 miles.

Mr. PALLONE. They recognize, but they do not actually manage it, in other words?

Ambassador WOLFE. They do not manage tuna within their 200-mile zone. And I would point out again—as I did to the Chairman—just because these other countries—the majority of the countries that have a tuna interest—manage tuna within their own zone, to the best of my knowledge, none of these other countries has an effective conservation regime. They may manage but they do not conserve.

So my point to the Subcommittee is that it is our opinion—and has been for over a decade—that the management and the conservation issue has to be handled on an international basis, and that is why we have testified many times before to that effect. Thank you.

Mr. PALLONE. Well, let me just ask one more thing. It would be possible, I guess, under current law, for, once quotas are set internationally, for the National Marine Fisheries—or I guess I should say for the councils, the regional councils, to then regulate what domestic tuna fishermen do within the 200-mile zone.

I mean, that is not prohibited right now. It is just not done, right?

Mr. BLONDIN. Yes.

Mr. PALLONE. In other words, if they felt that the international quotas were too lenient, if you will, they could still "crack down," or they could impose more stringent criteria on domestic fishermen, or not?

Ambassador WOLFE. No, and that was the point we were just talking about with the Chairman. That it is the Department of Commerce's view that we cannot be more constraining than the ICCAT recommendations, as far as quota is concerned.

Mr. PALLONE. So we would have to have a change in the law in order to accomplish that. But the main thing, then, the change in the law would affect, is kind of a reversal of the way things operate, from what you are telling me. That we would first have the councils deciding what to do, and then you would take that recommendation as the basis for any international agreement?

Ambassador WOLFE. That is with respect to fish that are under the jurisdiction of the councils, such as swordfish and billfish, but not tunas.

Mr. PALLONE. Thank you.

Mr. STUDDS. The gentlelady from Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman. I guess this might be directed to either of you. Last week, Australia, New Zealand, Fiji, and 12 other South Pacific nations signed a declaration branding

high-seas driftnet fishing as indiscriminate, irresponsible, and destructive, and calling for international action to end the use of those nets.

I would join the gentlewoman from Hawaii in asking that you expand her request for information to include whatever you know about the use of those humongous driftnets in the Pacific, and what we may know we are headed towards in the way of long-term conservation of that international resource.

Mrs. UNSOELD. And then——

Ambassador WOLFE. May I respond to that?

Mrs. UNSOELD. Surely.

Ambassador WOLFE. Two weeks ago, as you pointed out, in Fiji, 16 Pacific Island nations, under the auspices of the FORUM fisheries Agency, passed a resolution calling for a moratorium on all driftnet fishing for albacore in the South Pacific until a management regime is in place. I am happy to say—and I think in large part, because of the South Pacific treaty that I referred to earlier—we were totally supportive, participated with our island nation friends, the 15 island nations in that resolution, and I think that needs to be brought out.

Mrs. UNSOELD. Today's Washington Post had an article on the "sting" operation involving Taiwan, and I have one question on that. What happened when the State Department sent the request to the Taiwanese Government for permission to board? Has there been a response on that?

Ambassador WOLFE. As the Congresswoman from Washington is aware, under international law, to do anything on the high seas, whether to board a fishing vessel, or whether to board a vessel suspected of drug activity, the international law is flag-state responsibility. Under the international concept of flag-state responsibility, a Government must request from the other state consent to board that vessel.

The "sting" operation is completed, as you pointed out. Mr. Blondin's organization, and the Coast Guard, and many others were involved. That is over——

Mrs. UNSOELD. And well done.

Ambassador WOLFE. Well done. That is correct. The arrests have been made. There are other vessels out there that we would like to board, inspect, and detain. And we have not heard—in direct answer to your question—we have not received consent at this point.

But I would add, again, for the record, I think a very important point. The Department of State negotiated an agreement that you are aware of——

Mrs. UNSOELD. Yes.

Ambassador WOLFE [continuing]. Your staff has been briefed—with regard to the Taiwanese negotiations, three weeks ago, which provides for, for the first time ever, in my memory—which is weak at times—boarding and inspection on the high seas when there is suspected illegal fishing activity. That agreement has been signed by the U.S., but has not been signed by Taiwan yet. When that comes into force—and hopefully it will soon—then we will have the authority that we do not have, presently.

Mrs. UNSOELD. My next question was going to be what the status of that driftnet agreement was, and is the State Department expecting Taiwan to sign at any moment, or, are you expecting that you may have to suggest that there are some deadlines coming up?

Ambassador WOLFE. As the negotiator, I have a personal interest in this. The recent "sting" operation may slow things down. I just am not able to speak for the Government of Taiwan. I wish they would come back in tomorrow, and may do that this week, or next week. It is a good agreement.

Mrs. UNSOELD. Having been critical of some earlier negotiated agreements, I would like to compliment you on the one that you worked out with the Taiwanese Government.

Ambassador WOLFE. Thank you.

Mrs. UNSOELD. I think you did an excellent job, and I hope that we will get their signature on it, so we do not have to waste our Coast Guard money, and other money, in pursuit of these vessels, or keeping track of them.

Ambassador WOLFE. I agree. I agree, Mrs. Unsoeld. I also would point out to, or suggest to you, that I think we have an equally good agreement with the Japanese. I know there is a question from certain segments of the Congress, but I would suggest to you that it is a very strong enforcement agreement, good monitoring agreement, and we feel very strongly, that it is in the best interests of resolving the driftnet issue with Japan. Thank you.

Mrs. UNSOELD. Thank you.

Mr. STUDDS. The gentleman from Delaware.

Mr. CARPER. Just one question, and this may have been asked and I missed it. How do other countries feel about the taking of tuna, whether that should be governed, if you will, by international agreement as opposed to domestic law?

Ambassador WOLFE. It was brought up earlier, and I think the response—I am not sure if I gave it, or Carmen gave it—the majority of the other countries in the world, that have a tuna interest, have jurisdiction, or have taken jurisdiction over tuna within their whole 200-mile limit.

Mr. CARPER. They have?

Ambassador WOLFE. Pardon me?

Mr. CARPER. They have?

Ambassador WOLFE. Correct. With the exception of the major tuna-fishing nations, Japan, Korea, and the U.S. Additionally, as I mentioned earlier, because they have taken that measure, that does not mean it is the right one, in terms of conservation and management of that species.

Mr. CARPER. Should we follow their lead?

Ambassador WOLFE. Absolutely not.

Mr. CARPER. All right. And why not?

Ambassador WOLFE. My testimony is replete with answers to that. I would be happy to go through it, again, with you. Again, we have recognized, over the years, over a decade, that for efficient conservation and management of these highly-migratory species that swim around the world, we can only do this through international regimes, as I believe we are doing now through ICCAT and through the IATTC, and we need the authority to assure that conservation takes place in all of the broad ocean areas, not just in a

single country, as this highly-migratory species passes through, or may pass through that country.

Mr. CARPER. All right. Thank you.

Ambassador WOLFE. Sure.

Mr. STUDDS. Do either gentlemen from New York wish to ask questions?

[No response.]

Mr. STUDDS. Gentlemen, we thank you very much, and we look forward to working with you. This is not an easy matter which we have just demonstrated, if nothing else. Thank you.

We will go to panel number two.

[Pause.]

Mr. STUDDS. Now we have one mystery, which I am sure Mr. Walsh will resolve for us. You do not look a bit like David Burney. Can you explain what is going on here.

Mr. WALSH. Mr. Chairman, I do apologize that you have to see me, once again here, before the Committee. David Burney——

Mr. STUDDS. We also would like to hear you.

Mr. WALSH [continuing]. David Burney, who is the General Counsel of the U.S. Tuna Foundation, unfortunately for us is—after having gotten back from discussions in the Central and Western Pacific, was called, first, to San Francisco, and then to San Diego. He is currently deep in litigation that has been brought against the Government—in which our industry are interveners—by Earth Island Institute seeking, quite simply, to undo many of the things that they were unable to do before Congress in the last go-around of the Marine Mammal Protection Act.

Mr. STUDDS. It is a very lengthy answer to the question of what you are doing here.

Mr. WALSH. Therefore, he is not here today. I am here, representing the U.S. Tuna Foundation, and accompanying me is August Felando, the President of the American Tunaboat Association. We felt we ought to have some real expertise here to answer some of your questions.

Mr. STUDDS. I am just reminded, for the record, that the United Sport Fishermen's Association was invited to testify, and two days ago, they informed us that their witness could not make it, and they have submitted a statement for the record.

[The statement of United Sport Fishermen's Association can be found at the end of the hearing.]

Mr. STUDDS. We therefore have four witnesses on this panel. I am going to ask each of you, as we always do at this time, to confine your oral presentation to five minutes, and assure you that the longer written testimony will appear in full in the record, and Mr. Felando, you, if you wish, can share the five minutes allotted to the Tuna Foundation, in any manner you wish, with Mr. Walsh. I trust you have already worked that out.

We will go in this order, and we will start with the Tuna Foundation, however you folks want to divide your time amongst you.

STATEMENTS OF A PANEL, CONSISTING OF JAMES WALSH, ESQUIRE, DAVIS, WRIGHT AND JONES, WASHINGTON, D.C., ACCOMPANIED BY AUGUST FELANDO, PRESIDENT, AMERICAN TUNABOAT ASSOCIATION; KEN HINMAN, EXECUTIVE DIRECTOR, NATIONAL COALITION FOR MARINE CONSERVATION; REBECCA PHILLIPS, MERRITT SEAFOOD COMPANY; AND STEVE MORETON, PRESIDENT, EAST COAST TUNA ASSOCIATION

Mr. WALSH. Mr. Chairman, let me begin. My name is James Walsh. I am a partner in the law firm of Davis, Wright and Jones, and we represent the tuna industry, among other fishing groups around the country.

I am here to give the testimony of the U.S. Tuna Foundation, speaking on behalf of the tuna industry, an industry that is represented here by boat owners, by members of labor unions, and by processors.

We would like to have both pieces of testimony, both Mr. Burney's, and Mr. Felando's, put into the record in full at this point.

In addition, we would like to submit for the record some additional information, the testimony that will be given later this afternoon by Dr. James Joseph, Director of the Inter-American Tropical Tuna Commission.

I will not go through all the points that I know you have heard before, Mr. Studds, and that we have all discussed for some time now, since the Magnuson Act was put in being back in the mid-1970's.

As you know, we worked together on that legislation. I spent 5 years after that overseeing management plans in the Federal Government, and since then have had most of my law practice concentrated on fishery management, both in the Pacific Northwest and for the tuna industry.

What I would like to do is simply say there is just no question that we are facing a very simple tradeoff. If we do not have the tuna juridical position, we do not have the "coin of the realm" to be traded in international negotiations.

We will face prospects of dealing with countries who have no interest in tuna conservation, and only have an interest in acquiring the benefit of economic activities which may or may not prove to be beneficial for them in the long run.

We have had this difficulty for some time, and based on consistent U.S. policy, highly-migratory species should be regulated by international bodies.

Perhaps for some of those who are not as experienced in these kind of matters on an international basis, because we do not have a large fleet in terms of numbers, and they are a long way away from America, maybe we can try and bring it home a little bit. The point is fairly simple.

When we have a problem with striped bass, and we have independent States seeking to conserve that resource, what happens is that the varying political differences, and interests, and knowledge, and just plain old concentration, means that often, some of our fishery resources begin to deteriorate because the striped bass may not be in all those States, or in varying degrees, but each may have a different "conservation" attitude.

So what happens is, a marvelous resource like the striped bass will be over-fished, and there will be no concern that will bring it high enough on the agenda, until it is deeply depleted.

So what we are trying to say is that principle, that is, that all fisheries—that is in the Magnuson Act—all fisheries must be managed throughout their range. You simply cannot control a resource until you have got all of it under conservation, and that is the basic point.

Also, on the point about billfish, in fact the anomaly, the inconsistency, was the fact that we exempted billfish. That was a strict political deal. At the time, the United States' position had been that all migratory fish had to be managed internationally. That is reflected in The Law of the Sea Treaty. The treaty says so, and lists all species of fish.

It also says the coastal nation controls salmon. It says that the coastal nation controls coastal stocks of fish. What we did, very simply, is we made a political deal in 1976, in order not to have confrontations over the highly-migratory issue, as we put together a piece of legislation that reflected the interests of all of our fishing industry. It was not on the basis that tuna was the anomaly. It was on the basis that billfish was the anomaly, and I am sure the record will bear me out on that.

Mr. Chairman, I will be happy to answer some questions later on, and now let Mr. Felando make a few comments on some of the statistics he would like to put into the record.

[The statements of Mr. Burney and Mr. Felando can be found at the end of the hearing.]

Mr. STUDDS. You have left two minutes for Mr. Felando.

Mr. FELANDO. Yes. Thank you very much, Mr. Chairman. I just have a table here that I will provide the Committee with, that is based on the statistics compiled by the National Marine Fisheries Service since 1971. At that time, they categorized the catch from shore to three miles, from three to 200—this is the catch of tuna—and then outside the 200-mile zone of the United States.

And during that period of time, what it shows is that the average annual catch from shore to three miles is roughly 310 tons of fish. The average annual catch from three to 200 miles is about 20,000 tons, and the average catch, each year, for tuna caught by U.S. fishermen, beyond the 200-mile zone of the United States, is 247,000 tons.

What I think this reflects is that the United States is a high-seas tuna fishing Nation. I would like to make one point.

The American Tunaboat Association, and other segments of the United States' tuna industry, way back, right after World War II, supported legislation establishing the Inter-American Tropical Tuna Commission, a commission that is recognized, worldwide, as the preeminent commission dealing with tuna conservation.

We also supported and participated in the treaty negotiation in Rio de Janeiro concerning ICCAT. I, personally, have been involved during the period of 1966 through 1979 with actual regulations concerning IATTC production—limits or quotas on yellowfin tuna, so as to maintain the conservation of tuna in the eastern Pacific.

This is not the time to go into that, but should the occasion arise, I will be able to answer questions not only in that area, but also on

the Atlantic Tuna Commission, where in effect our fleet no longer is allowed to catch bluefin, for instance, at all.

One other point. We have very good statistics compiled by the Inter-American Tropical Tuna Commission with respect to how much fish is caught within 200 miles off the 13 countries from California down to Chile, and out to Hawaii, going back a number of years.

But just to give you—these are the statistics based on the international fleet—just to give you an idea. In 1984, roughly 56 percent of the tuna was caught within 200 miles of these countries, 13 countries. In 1985, about 56 percent. In 1986, about 53 percent. In 1987, 57 percent, and in 1988, 61 percent.

Now, this will vary with specie, will vary with fleets, but basically, I hope this gives you a little overview. One other point. I think that within the last 5 years there has been some dramatic change about fishing in the United States on tuna. The major change is that now we have a fresh-fish market for tuna. But in the years preceding 1976—as this table will show—in fact our average catch, annually, of tuna, within the waters of the United States, within 200 miles, was around 30,000 tons a year. We had a very significant coastal fishery at that particular time. I would stop right now. Thank you very much.

Mr. STUDDS. Thank you very much. The statistics will be helpful.

Mr. STUDDS. Mr. Ken Hinman, National Coalition for Marine Conservation. Welcome.

STATEMENT OF MR. HINMAN

Mr. HINMAN. Thank you, Mr. Chairman, Members of the Subcommittee. The National Coalition for Marine Conservation appreciates this opportunity to present our views on the management of highly-migratory species.

The National Coalition for Marine Conservation is a nonprofit organization composed of conservation-minded fishermen, and, like you, Mr. Chairman, our primary concern is conservation.

Before I begin, I want to dispel the notion that some have advanced, that this issue is somehow a recreational versus commercial issue. Nothing could be further from the truth. This issue is not one of special interests, but of adopting sound management policies to preserve fishery resources for all fishermen, commercial and recreational. Both groups of fishermen stand to gain, significantly, from improved management, and both stand to lose, significantly, if our tuna, swordfish, and billfish fisheries remain poorly managed.

I am here to urge Congress to amend the Magnuson Act to extend jurisdiction to all species of fish found within the EEZ, with no exceptions, and to repeal section 102, the tuna exemption.

As has already been pointed out, this is inconsistent with other U.S. fishery law, and contrary to accepted international practice. It interferes with and severely inhibits our efforts to conserve other pelagic species as required by law, and it allows the uncontrolled exploitation of tuna off our shores, thereby jeopardizing these very valuable commercial and recreational resources.

The tuna exemption has already taken a toll on fisheries of supreme importance to American fishermen. Two species in the Atlantic, the bluefin tuna and the broadbill swordfish are today severely over-fished. The bluefin, because management has been left entirely in the hands of an international organization that is ill-equipped for effective action, and swordfish because of the constraints imposed on domestic management by our tuna policy. Other pelagic species, notably, billfish and sharks, could be headed for the same fate.

The opponents of tuna management choose to focus on trans-oceanic migrations, high-seas fishing, and access to foreign-fishing grounds, keeping the issue as far from home as possible. But we should not let our attention be diverted away from the domestic considerations involved, the very real and very serious problems our tuna exemption creates for domestic management and for our own coastal fishermen. That is where we must look, first, to measure the success, or failure, of our tuna policy.

And it has been a failure, as anyone who has been involved in the management of pelagic fish under the Management Act since 1976 can attest. The regional councils' ability to conserve billfish and swordfish has continually come into fatal conflict with their inability to regulate tuna fishing, even minimally, resulting in over-fishing, and in the case of swordfish, severe stock depletion.

The law may draw an arbitrary and artificial distinction between the fisheries for billfish, swordfish, and sharks, on the one hand, and tunas, on the other, but these fisheries are inextricably bound by the environment they share, and by the commercial gear used to capture tuna in the EEZ, the longline, which does not discriminate among pelagic fish.

The 1988 Atlantic Billfish Plan seeks to protect marlin and sailfish from over-fishing, but we estimate that as many as 12,000 billfish may be caught as a by-catch in the tuna fisheries in the U.S. EEZ each year. The precise number is unknown because the tuna fisheries are unregulated. The conservation impact of the new law will be modest, at best, if the billfish/longline interactions are not reduced.

Efforts to manage and conserve Atlantic swordfish are also thwarted by the tuna exemption. Today, the swordfish is severely over-fished. The Chairmen of four of the five Atlantic councils responsible for swordfish management recently stated, and I quote: "Barriers to management presented by section 102 must be recognized as the major contributing factor in the swordfish decline."

During the 1980's, the U.S. coastal tuna fisheries, with all of their fishing activity taking place in the U.S. EEZ, have emerged as fisheries of tremendous importance to our national economy. These fisheries and the tuna resources they depend on must be protected. Under current law, they are not.

Our "hands-off" policy on tuna fishing leaves responsibility for conserving tuna stocks solely in the hands of international organizations such as ICCAT. The bluefin experience speaks poorly of ICCAT's ability to manage tuna. The timid measures adopted by the Commission in 1982 are not working. Many knowledgeable observers agree that the current quota set by ICCAT is too high to effect a recovery, and the stock still teeters on the brink of col-

lapse. Yet ICCAT is content to maintain the status quo, indefinitely. I submit that merely keeping a fish off the Endangered Species List is no measure of successful management.

Other species of tuna, particularly yellowfin and bigeye, are now the "bread and butter" of the domestic tuna fishery, and whether these stocks are well-managed, or quickly depleted, should be of concern to U.S. fishery managers. Unfortunately, they are powerless to prevent over-fishing because of the tuna exemption. As it is now, they are solely dependent on international action, which, as we saw in the case of bluefin, we cannot depend on.

I want to make an important point. The debate over tuna management in this country, from the very beginning, has been infected with what we believe is a fundamental misconception, and that is that domestic management is incompatible with, or is even a deterrent to, international cooperation.

This notion is demonstrably false. The fact is, every other nation which is a party to a multinational treaty governing tuna, such as ICCAT, does claim jurisdiction over tuna, and recognizes the right of other nations states to do the same. Only the U.S. views a claim to domestic jurisdiction as precluding international management, a view it does not hold, curiously enough, with regard to any other highly-migratory species.

Domestic and international management are not mutually exclusive, but, rather, two essential parts of a whole. While we stubbornly cling to our present policy, engaging in endless debates about which approach to managing tuna is the more effective, as if it were an either/or proposition, our fisheries are being destroyed by neglect.

What we, as a Nation, need to do is become more aggressive in the conservation of pelagic fish, both under the Magnuson Act and in the international arena. We must also make a concerted effort to improve the quality of science which supports management decisions made by U.S. authorities and pursued in conservation agreements with other nations.

Mr. Chairman, I would like to make one final point, and a suggestion to the Subcommittee, if I may. From much of the testimony we have heard, it is clear that it is not the biology of the tunas which has earned them the lone exemption to U.S. fishery law, and to international fishery law, but, rather, the way the distant water tuna fisheries are prosecuted.

In truth, tuna are being excluded because of the leverage the exemption supposedly provides in securing access to fishing grounds for our West Coast tuna fleet. But the leverage, if any, comes not from our policy of exempting tuna—other nations reject and resent it—but from the embargo provisions of the Magnuson Act, and the loss compensation provided by the Fishermen's Protective Act.

If securing access for U.S. fishermen abroad is deemed a legitimate interest of the U.S. Government, then we urge Congress to find another way to assist the industry, without wreaking havoc on domestic management and eroding respect for U.S. policy in the eyes of the world. That concludes my statement, Mr. Chairman, and I would be happy to answer any questions.

[The statement of Mr. Hinman can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much. Let me just observe that the Chair is getting soft-hearted. The first two five-minute statements took 22 minutes. There is a gavel up here but I do not like to use it.

Next, Ms. Rebecca Phillips of the Merritt Seafood Company. Ms. Phillips.

STATEMENT OF MS. PHILLIPS

Ms. PHILLIPS. My name is Becky Phillips and I am from Pompano Beach, Florida. I represent 65 independent longliners and work for Merritt Seafood which is a producer of swordfish on the east coast of Florida.

I spent the past 4 years working as an advisor to the Swordfish Committee for the South Atlantic Council, and this is my second year as advisor to ICCAT. So I am very familiar with the workings of the council as well as ICCAT.

I also worked 10 years as a dock master for a recreational fishery, and the last 10 years I have spent in the commercial sector.

I feel that amendment of the Magnuson Act to include tuna should be cautiously considered and predicated by the past performance of the regional management councils, relative to the large pelagics, billfish and sword.

The present billfish regulation on the domestic level resulted in a basic reservation of a certain fish for an exclusive purpose, recreational use and not conservation of the resource.

Perhaps the industry was a little naive when this plan began, because we all agreed, in theory, with the billfish plan. There is not one of us that can dispute the beauty of the billfish as it challenges the fisherman.

In our area, there is not a viable billfish market, so there was really no complaint from the industry. I sat at one council meeting where it was decided that we, the council, would sit back and wait until the billfish plan was sent forward, to see how it was accepted, and where it passed, and then work began, very quickly, on the swordfish plan.

The proposed swordfish plan will have a 70-percent cutback on the U.S. industry, effectively eliminating a U.S.-directed swordfish industry and imposing a drastic economic impact on the U.S. fishermen, with major gains to the foreign-fishing fleets fishing the same stock.

In my testimony, I included a small map, that shows the areas that they use for ICCAT, for the ICCAT workshops, and it deals with one, two, three, and 4A, the 4A area being the center area, and including the Flemish cap all the way down through the Caribbean.

In those areas, I hear continuously about the Japanese fleet, but one fleet that I would like to bring to your attention is an ever-growing Spanish fleet that fishes that same area.

Last year, the U.S. fleets caught 11.5 million pounds out of that particular area. This is the mixing of the U.S. and the Spanish fleets.

The Spanish caught 11.8. We caught 11.5. Now, when we deter the American fishermen from that area, that same Spanish fleet is

going to fish that additional 11.5 million pounds that we are not permitted to fish on. The same thing being in the Caribbean.

Our boats are not fishing inside the EEZ, and our concern is that with the councils controlling those areas, they have extended their authority beyond the 200-mile limit, controlling a fishery that is openly fished by a foreign fishery, and restricting our domestic fishermen, and, in effect, it will put us out of business.

Putting us out of the swordfish business puts us towards the directed tuna fishery. My final remarks is, when considering your decision on tuna, please bear in mind the full ramification of bringing another large pelagic under the Magnuson Act to be managed in the manner that I have mentioned.

We should intensify our commitment and effort to negotiate international, multilateral control in an international forum such as ICCAT. Without use of the international forum, where all user-countries know, and understand, the need to preserve the resource, management simply will not work.

If U.S. vessels are forced to foreign registries by restrictive coastwise regulations, and rendered uncompetitive with subsidized foreign fleets, our current control and influence over these fisheries would be lost.

[The statement of Ms. Phillips can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much. And finally, Mr. Steve Moreton, president of the East Coast Tuna Association, but of much greater consequence, from Hyannis, Massachusetts.

STATEMENT OF MR. MORETON

Mr. MORETON. There you go. Good morning, Mr. Chairman. My name is Steve Moreton. I want to thank you for inviting me to testify here today.

I am president of a company called M&M Tackle Company based in Hyannis, Massachusetts. M&M Tackle is a manufacturer and distributor of fishing tackle for both recreational and commercial offshore pelagic fisheries.

I have also been a tuna fisherman since 1966.

Today, I am testifying as the president of the East Coast Tuna Association. The association is a nonprofit organization of U.S. citizens and companies involved in all aspects of the Atlantic bluefin tuna fishery.

Fishermen, processors, and members of all allied support industries, really.

The conservation and management of the bluefin tuna resource is of extreme interest to our organization. Even though our membership covers a wide diversity of fishermen and companies in the industry from Maine to Florida, there is complete agreement that the International Convention for the conservation of Atlantic tunas is the appropriate management authority for bluefin tuna.

In 1981 and 1982, ICCAT reduced the fishing effort for bluefin tuna to minimal levels of harvest, established size limitations, and ended the directed fishery in the Gulf of Mexico.

These management measures are beginning to pay off. The 1988 ICCAT report confirms that the recruitment and survival of the

young fish, one to five years old, has improved substantially as a result of the quotas established in 1982.

The 1988 ICCAT report also shows that the decline of middle-sized fish in the six- to nine-year-old age group has been stopped, and minor increases in the abundance have been reported.

Until the 1982, and more recent year classes enter the spawning stock, the abundance of large fish in the 10- to 30-year-old class will continue to show a decline. As a result, ICCAT has recommended that the fishing mortality be maintained at its current reduced levels, which we concur with.

The current level of fishing effort for Atlantic bluefin tuna is limited to a quota divided between the U.S., Japan, and Canada.

Fishing within U.S. permit categories is shut down as the quota in each fishery is reached. Claims that uncontrolled commercial exploitation of giant tuna is occurring is not based on fact.

The fishery is very closely monitored. The quotas are very strictly enforced. One of the major concerns of the East Coast Tuna Association is the over-harvest of the small fish in the unlicensed angling category, where they have a quota of 139 ton, which has been exceeded the last 3 years. In 1988, the catch was estimated at 600 tons.

If you translate that into individual fish, you are talking about approximately 40,000 individual bluefin tuna, which is more than the license categories on the giants would take in 10 years, and this is occurring annually.

Regarding the foreign catch, the Japanese longline fishery takes place in the Northwest Atlantic during the fall and winter, targeting on the medium fish, not the giants.

In fact the Japanese catch is used as the principal index of abundance for bluefin that are in the 3- to 9-year-old class. Last year, their catch, within the EEZ, was only 388 ton.

At this time, we see no evidence that we are facing a conservation crisis. The East Coast Tuna Association strongly urges Congress not to alter the international management framework for Atlantic bluefin tuna.

ICCAT provides the only forum for international cooperation needed to manage bluefin tuna over the entire range of the stock. The ICCAT management structure also has provided for a balance in the participation of all user groups.

The U.S. ICCAT advisory panel is also made up a fair balance of recreational and commercial interests. That same cannot be said for the fishery management councils, several of which are composed of primarily recreational interests.

The regional fishery management councils are members of the advisory panel, and attend, and participate in the ICCAT meetings abroad. We see no reason in changing a management system that has jurisdiction over the entire range of the stock, and provides for the full participation of the National Marine Fisheries Service, State fishery service agencies, regional councils, and all user groups.

We have a system that is working. We feel, why complicate it? Certainly, the stocks of bluefin were over-fished for a number of years, but strict adherence to current regulations is proving to be

successful, showing positive results in the stocks, while maintaining a limited but viable fishery.

We just do not want to lose sight of what we feel is the main objective, which is the species and the stocks, and not have a struggle on the issue of politics, power or control.

I want to thank you, again, for the opportunity to express the views of the East Coast Tuna Association, and I would be happy to answer any questions, or provide any additional information to assist the Committee.

[The statement of Mr. Moreton can be found at the end of the hearing.]

Mr. STUDDS. Thank you very much, Mr. Moreton.

Mr. Walsh, let me ask you the same question, for the purposes of the record, that I asked Ambassador Wolfe. Why would inclusion of tuna within the Magnuson Act make it more difficult, than it already is, to reach agreements with foreign nations to guarantee access for the U.S. fleet to foreign fishing grounds?

Mr. WALSH. I think the answer is very simple—leverage. We would not have the leverage necessary to achieve a regime which would be fairly balanced. A typical example is what happened in the South Pacific. The nations there wanted our fleet to pay something approaching $22 million in fishing fees. $22 million is roughly 22 percent of the value of the fishery.

In effect, they would have made that fishery uneconomic. Without the participation of the United States Government, without the focus on trying to manage it throughout the resource's range, we simply would not have the leverage to talk to those countries without the tuna policies, we think there would be even less incentive on the part of our Government to continue to use their efforts to assist us.

Mr. STUDDS. Well, the obvious but somewhat cynical question is, who had which leverage? That one cost us $50 million, did it not?

Mr. WALSH. Well, the agreement has two parts, as you recall. Part of it requires us to pay fees—$2.5 million, roughly, a year. The remainder of the amount, roughly $10 million a year, is contributed by the Department of State on the basis of foreign-policy concerns, which I believe are fairly well set forth in the record. I believe the House Foreign Affairs Committee has written a report on that issue.

But it was very clearly stated that we needed better relations in the South Pacific, not just because of the tuna issue and tuna problems that were perceived, but because of nuclear issues and other reasons, and, as a result, I think you will find that the evidence will indicate—and the State Department will testify, and others will support them—that our relations in the South Pacific are better than they have been in many years.

Mr. STUDDS. Well, I, as you know, also serve on the Foreign Affairs Committee, and I am aware of the complexity of our interests in the area, but I think even you would probably agree that the driving force was the requirement of the U.S. tuna fleet, would you not, in this instance?

Mr. WALSH. The requirement of the—well, I think the answer is yes, it was. Absolutely. I mean, if we do not have a U.S. presence in an area, there would be no need to negotiate any treaty.

Mr. STUDDS. I am not questioning, at the moment, at least, the wisdom, from the point of view of U.S. policy, of the expenditure of those funds, but it is a substantial expenditure, and when you mentioned "leverage," they had some leverage, too, apparently—the Pacific island nations.

Mr. WALSH. Well, the leverage was that what would happen is that a boat would be seized, and the vessel would be taken in. Many of these seizures occurred when vessels were transiting.

Mr. STUDDS. I understand.

Mr. WALSH. They had their nets down, and they were not fishing, and what would happen is we would have these confrontations and we would all want to solve them, quickly.

Mr. STUDDS. Let me ask a question, if I may, both of Mr. Hinman and Mr. Moreton, or anybody else who wants to respond may, although it is a bluefin tuna, and therefore an Atlantic question.

In your summary of your testimony, Mr. Hinman, you say the Atlantic bluefin tuna—and the Atlantic swordfish—but, for the moment, the Atlantic bluefin tuna is severely over-fished. Mr. Moreton obviously does not agree with that.

I would like to have you two discuss that for a moment, for the edification of the Subcommittee.

Mr. HINMAN. I will go first. The latest information I have seen is that the spawning stock of giant bluefin tuna is still continuing to decline, as it has since the ICCAT regulations were implemented, and that the number of younger fish on which the recovery of the stock depends is still at a dangerously low level.

There is uncertainty about the recovery rate of those young fish, and how fast the number is increasing. My understanding is that the analysis used, the virtual population analysis, to measure that rebuilding, that stock size, has a 3-year time lag in accuracy, so the most recent figures showing recovery are not all that reliable.

We have to wait longer to see. So that many scientists I have spoken with, independent of the National Marine Fisheries Service, some with the councils, feel that the level of fishing is still much too high, that there is very little evidence that the stock is recovering at all, and that the same concern that precipitated the bluefin moratorium, or what was supposed to be a moratorium back in 1981-1982, still exists; that the stock could face a recruitment failure if we had a very poor year of young fish, and that we might have a collapse. That is my understanding.

Mr. STUDDS. Mr. Moreton.

Mr. MORETON. The decline of the giants—although we feel it is stabilizing—is something that was expected, and we are fishing—under the current regulations now, I feel that we are not doing any damage to the stocks of the giants. That we are fishing at a bare minimum level.

We are seeing an increase in—the science is showing an increase. The port samplings are showing dramatic increases in the landings, particularly of the small fish. I feel that fishing, under the current regulations that we are fishing on, on the giants, we will continue to see an increase in the smaller year classes coming in, but as I mentioned before, our major concern is that over the last 3 years we have seen, in this angling category of 139 tons, we have

seen it go from 200 tons to an estimated 400 tons in 1987, to an estimated 600 tons being taken in 1988.

Now that is a concern of ours. Those are the fish that we are trying to protect. That is why we are no longer targeting small fish in the permitted categories.

I would like to restate also, that on the very limited quotas that we are fishing under, the enforcement is very strict. When the quotas are filled, that is the end.

Over the last few years, fishing under those regulations, we have been seeing an increase. In fact this is not a scientific observation—but right now, the medium-sized fish—over the last 2 years we have been seeing more and more medium-sized fish mixed in with the giants, and the small fish.

This year, now, there are—from New Jersey to the Gulf of Maine, over to Nova Scotia, simultaneously, these fish are being sighted in great numbers and being caught in great numbers. This year, the harpoon category was filled earlier than it ever has been. That is a small quota, but they were seeing more fish, in more areas, than they have in a long time. I hope I have answered your question.

Mr. STUDDS. I understand. We have some disagreement, obviously, amongst knowledgeable and concerned people.

Mr. HINMAN. Mr. Chairman, could I follow up with something.

Mr. STUDDS. Yes. Briefly, if you would.

Mr. HINMAN. A key feature of the ICCAT conservation agreement is to prohibit a directed fishery for giant bluefin in the Gulf of Mexico, and there is a problem there with us exceeding our quotas because of—there is actually a de facto directed fishery for blue fin. There are several hundred yellowfin tuna vessels longlining in the Gulf of Mexico now.

There is known to be a high rate of capture of bluefin. They are limited to two fish each, but discards of fish, in that fishery, to keep within that quota, is thought to be rather high, so that we are exceeding our quota of giant bluefins, very likely, and that is a cause for major concern.

Mr. MORETON. May I——

Mr. STUDDS. I do not want to prolong this indefinitely. Very quickly, Mr. Moreton.

Mr. MORETON. Very briefly. That is also an issue that is of concern to the East Coast Tuna Association. We understand that National Marine Fisheries Service is acting to address that issue in a large rulemaking package, perhaps this fall. We have made our concerns known.

Mr. STUDDS. Very good. The gentleman from New York.

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman.

I have two questions for each of you. The first question I would like each of you to answer, with just a yes or no, and I know it is a complex issue, but the question really comes down to—does your organization believe the tuna fishery is in trouble? Just give me a yes or no.

Mr. MORETON. No.

Mr. HOCHBRUECKNER. Do they think it is, or it is not?

Mr. WALSH. I do not think you can "yes" or "no," sir, and the reason is, is that there are a variety of fisheries. If you are talking

about Atlantic bluefin, northern Atlantic bluefin, I think the answer is yes, there is a problem.

Mr. HOCHBRUECKNER. We can confine it to Atlantic bluefin.

Mr. HINMAN. Yes.

Mr. HOCHBRUECKNER. So, thank you for the correction.

So it is still a "no"?

Mr. MORETON. As far as the northern Atlantic bluefin, I would say, no, not under the current regulations.

Mr. HOCHBRUECKNER. And Mr. Hinman, you are yes?

Mr. HINMAN. Yes.

Mr. HOCHBRUECKNER. Ms. Phillips? Can you give an opinion since——

Ms. PHILLIPS. In answer to your question, the "yes" answer is a little bit hard to address because from information that I have seen, since I have been here in Washington, they are seeing an increase in the current stocks. So it looks to me as though the ICCAT regime is working.

Mr. HOCHBRUECKNER. So I will put you down for a "no." Now that you have conditioned the question, how about a yes or a no?

Mr. WALSH. Well, the problem is I am reaching back 10 years when I used to review all these things. I think, based on the information that we have reviewed, based on the information of scientists, these stocks do not appear to be—there does not appear to be sufficient information to say, for some of them, that they are not in trouble, or they are in trouble.

For Atlantic bluefin, they have had difficulties, and they are managed for that reason, and their current status, I would have to defer to the scientists.

Mr. HOCHBRUECKNER. Mr. Felando?

Mr. FELANDO. Yes. I have been a member of the advisory committee since 1969 of ICCAT. The answer is, they are being properly managed; they are not in trouble. The answer would be no, specifically.

Mr. HOCHBRUECKNER. Then let me follow up with the second question to each of you. Whether you agree, or disagree, that the fishery is in trouble, if Congress decides that the fishery is in trouble, and we decide to take action, what action would you suggest we take to solve the problem? What would you find reasonably acceptable, or least offensive, or most positive, depending on your point of view?

So why don't we start with Mr. Moreton. You feel that we are not in trouble. I accept your input. But if we decide it is in trouble, and we decide to do something about it, what do you think we ought to do?

Mr. MORETON. I would have to say, if you decided to do something, I would continue to just work under the same format as established by ICCAT, and working within the National Marine Fisheries Service as far as the regulation, enforcement, and management.

I feel that to do anything other than that, to begin to complicate this issue—I think the only thing that is ultimately going to suffer is the stocks of the fish.

I certainly concur that, in the past, there has been over-fishing on the giants. That has ceased. We are seeing results. That is a

wonderful thing, to see results, to see a fishery's management policy working. I think the best thing to do is to leave it in the hands of the people who are managing it, currently.

Mr. HOCHBRUECKNER. Thank you. Mr. Hinman.

Mr. HINMAN. It would be hard to presume what the regional councils would do, but there are a whole range of options for managing fisheries that are available under the Magnuson Act. Gear restrictions, area closures, time and seasonal restrictions, observer coverage—those kind of things that have not been available to the regional councils to apply to the tuna fisheries. So I think you have to look at the Gulf of Mexico and see what kind of observer coverage or monitoring would be necessary to see how far we are exceeding the quota in giant bluefins and what can be done to regulate the tuna fisheries down there, to reduce that, to keep it within the quota, or, if we decide that the quota is too high, reduce it, and set quotas accordingly.

I would like to remind the Subcommittee that the quota we are fishing under right now—2600 metric tons—is not the original quota that ICCAT had set. They had originally talked about a moratorium with an 800-metric ton quota, and it was raised for political reasons, or economic reasons, to satisfy those involved in the fishery.

And that we are looking at a very long-term 30-year recovery under the present regime for the stocks of bluefin, and a lot of fishermen and a lot of people in the United States do not—managers—do not feel that that is a realistic goal.

Mr. HOCHBRUECKNER. But, in any case, you would be for including tuna under the Magnuson Act?

Mr. HINMAN. Definitely, yes.

Mr. HOCHBRUECKNER. Ms. Phillips?

Ms. PHILLIPS. I have difficulty with that, again, because tuna, marlin, and sword are all fin-to-fin fish. If you have a directed fishery for one, you have a by-catch of the other, and, to attempt to manage them without including the full range of their migratory habitat, and to deter the American fisherman from that stock of fish that is going to be continuously fished by a foreign fishery in the same area, and they will tell you, on the council, that the cutbacks that we are going to be facing with swordfish is not going to do anything except give us bargaining power. That is a little bit hard to take home to the dinner table, is bargaining power for the fishermen.

So, I believe if you have any sort of management for this large pelagic fishery, be it sword, be it tuna, or the marlin, it should be done within the range of their migratory habitat, not just inside the 200—we are not even fishing there.

Mr. HOCHBRUECKNER. Thank you. Mr. Walsh?

Mr. WALSH. What I would do is typically what is done in international problems. You go to the forum, you put forward scientific data, you subject the data to peer review, and you draw conclusions from that data about what the status of the stock is.

Then you look at alternative measures, ensuring that the measures achieve the conservation goal that you desire. Then you make sure that every fisherman that fishes on that stock of fish,

throughout its range, plays by the same rules, and is abiding by the same kind of program. Otherwise, it will not be successful.

I will tell you what I would not do. I certainly would not recommend what has been recommended and approved by the regional councils on billfish. That plan, as you know, is in court.

And the reason that I would not do it is what they have done—they are not regulating the high-seas activity. They have basically stated that the commercial fishery is to be ended, and that the recreational fishery, which is the predominant fishery, is not fishing with a quota. They are simply limited in size, but they can take as many fish as they want.

So you have got this rather odd situation. And I think you are probably wondering why we all seem to disagree, and I can say that after looking at the four squares of Mr. Hinman's statement, I cannot find much of anything to agree with.

And the reason is that we have a fundamental difference of opinion upon what is conservation and what is depletion. In commercial fisheries, what we are trying to do is figure out what the stock is, maximize the amount of fish we take out each year, without harming, in any way, the ability of the fish to reproduce.

If you are in a recreational fishery, what you are trying to do is make sure there is more than, say, an optimum yield, or a maximum sustainable yield. You are trying to increase your strike rate.

You are trying to increase the probability, when you go fishing, that you are going to catch a fish. It is a completely different concept in conservation between Mr. Hinman and those he represents, and the commercial fisheries, and the problem we are having here—and the reason we do not like the councils' plans, and a lot of people do not—is for the commercial people, their objectives are entirely different.

That is why, in 1982, Bill Gordon turned down the Pacific billfish plan because it said, it does not conserve fish. It allocates fish.

So, you know, it comes down to that very simple difference of opinion, that we do not look at conservation as commercial fishermen, as the recreational fishermen do.

Mr. STUDDS. Just in fairness to the gentlelady from Washington, in case we are interrupted do you have——

Mrs. UNSOELD. No; no.

Mr. STUDDS. You are sure? OK. I do not want this to go—I realize the background of some of the folks here.

Mr. HOCHBRUECKNER. Mr. Chairman, if I may.

Mr. STUDDS. The gentleman——

Mr. HOCHBRUECKNER. It seems appropriate that Mr. Hinman should have an opportunity.

Mr. STUDDS. I will certainly give him an opportunity to answer. I just want to alert the gentleman, that there are people at this table whose knowledge, and ability to expound upon that knowledge, is limitless.

[Laughter.]

Mr. STUDDS. Mr. Hinman, go ahead.

Mr. HINMAN. At the beginning of my testimony, I tried to emphasize that this is not a recreational versus a commercial issue. I understand that the billfish plan is a recreational plan in the sense that it is to conserve billfish for the U.S. recreational fishery. I

would like to point out that there is not a quota on the recreational fishery for billfish in the United States because the vast majority of billfish caught by recreational anglers are released alive.

I would also like to point out that our organization has expended an equal amount of time, if not more time, in trying to conserve and get proper management for swordfish, which is not a recreational species. In this country, it is 99 percent commercial.

If we were strictly only interested in recreational fishermen, or recreational fish, we would not be involved in swordfish. We have expended a tremendous amount of time because the issue that we are looking at is the proper management of resources for all fishermen in the United States, and conserving them in abundance, yes, so that there will be long-term productivity of those resources for all fishermen, and there will be economic benefit to the Nation, not so that there will be a short-term profit for a few, and that down the road, everybody will be out.

Mr. STUDDS. The Chair would just observe that this panel has done, I think, a very, very good job of articulating and reflecting the differences of opinion on some very major issues.

Unfortunately, there is no consensus as to what in the world we should do about them. That is why we are so highly paid.

So, I do want to thank you for doing precisely what it was we wanted you to do, which is to outline for the Subcommittee the conflicting issues that lie before us. Some of them are hauntingly familiar. They have been around for a long time. They have not been resolved yet, I think in part because some of the best minds in the world, in this area, disagree about what ought to be done about them.

But, hopefully, we will have a majority of said minds on this Committee, and we will do something as wise as we did many, many years ago, with the help of Mr. Walsh, who will not be held personally responsible for the subsequent change in the name of the statute. That is not your department.

We thank you all, and the Subcommittee stands adjourned.

[Whereupon, at 12:03 p.m., the Subcommittee was adjourned, subject to the call of the Chair.]

I

101ST CONGRESS
1ST SESSION

H. R. 2061

To authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1992.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 1989

Mr. STUDDS (for himself, Mr. JONES of North Carolina, Mr. YOUNG of Alaska, Mr. DAVIS, Mr. HUGHES, Mr. CARPER, Ms. SCHNEIDER, Mr. PALLONE, Mr. BRENNAN, and Mrs. UNSOELD) introduced the following bill; which was referred to the Committee on Merchant Marines and Fisheries

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A BILL

To authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1992.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended—

(1) by striking paragraph (1) and all that follows through paragraph (14);

(2) by redesignating paragraph (15) as paragraph (1); and

(3) by adding at the end the following:

"(2) $75,000,000 for fiscal year 1990.

"(3) $76,000,000 for fiscal year 1991.

"(4) $77,000,000 for fiscal year 1992.".

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I

101ST CONGRESS
1ST SESSION

H. R. 2841

To authorize the Fishermen's Protective Act of 1967 for fiscal year 1990.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1989

Mr. STUDDS (for himself, Mr. JONES of North Carolina, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To authorize the Fishermen's Protective Act of 1967 for fiscal year 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1990".

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I

101ST CONGRESS
1ST SESSION

H. R. 2842

To authorize appropriations to carry out the Atlantic Tunas Convention Act of 1975 through fiscal year 1992, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1989

Mr. STUDDS (for himself, Mr. JONES of North Carolina, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

---

A BILL

To authorize appropriations to carry out the Atlantic Tunas Convention Act of 1975 through fiscal year 1992, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS.

(a) IN GENERAL.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) (hereinafter in this Act referred to as the "Act") is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Of the Commissioners appointed under paragraph (1) who are not government employees—

"(A) 1 shall be appointed from among individuals with knowledge and experience in commercial fishing; and

"(B) 1 shall be appointed from among individuals with knowledge and experience in recreational fishing.

"(3)(A) The term of a Commissioner shall be 3 years.

"(B) No individual appointed in accordance with paragraph (2) shall be eligible to serve more than 2 consecutive terms as a Commissioner.".

(b) APPLICATION TO CURRENT COMMISSIONERS.—

(1) QUALIFICATION REQUIREMENT NOT APPLICABLE.—Section 3(a)(2) of the Act (as amended by this Act) shall not apply to reappointment of an individual as a United States Commissioner on the International Commission for the Conservation of Atlantic Tunas (hereinafter in this Act referred to as a "Commissioner") if that individual is serving in that position on the date of the enactment of this Act.

(2) CURRENT TERM NOT CONSIDERED.—An individual serving a term as a Commissioner on the date of the enactment of this Act shall not, by reason of that term of service, be ineligible under section 3(a)(3)(B) of

the Act (as amended by this Act) for reappointment as a Commissioner.

SEC. 2. TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS.

The term as Commissioner of each individual serving in that position on the date of the enactment of this Act shall terminate January 1, 1990. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

SEC. 3. TRAVEL EXPENSES OF COMMISSIONERS.

Section 3 of the Act (16 U.S.C. 971a) is amended by adding at the end the following:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissions, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

SEC. 4. TRAVEL EXPENSES OF ADVISORY COMMITTEE.

Section 4 of the Act (16 U.S.C. 971b) is amended by striking "On approval" and all that follows through the end of the section and inserting the following: "The Secretary

and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act is amended to read as follows:

"APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $1,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992.".

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TESTIMONY OF

AMBASSADOR EDWARD E. WOLFE
DEPUTY ASSISTANT SECRETARY
BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS
DEPARTMENT OF STATE

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT
COMMITTEE ON MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

JULY 20, 1989

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to be here today to discuss U.S. tuna policy. The Department of State has a long history, spanning several decades, of close involvement in international efforts to conserve and manage highly migratory tuna resources all over the world.

The involvement of the Department of State in international tuna issues originates from two principal factors. The first is that the Department is involved in international tuna issues because of our foreign policy interests. As you can appreciate, it is important for us to negotiate agreements with other countries regarding the

activities of the U.S. fleet to avoid foreign policy problems which can result in the absence of agreements.

The second factor is that the United States has a large and economically valuable tuna industry which is very much a part of the international fisheries world. The U.S. tuna fleet, which is the second largest in the world, fishes extensively in vast areas of the eastern tropical Pacific Ocean and the South Pacific Ocean. In the Atlantic, there is an expanding U.S. commercial tuna fishery which operates in both U.S. and international waters. The U.S. tuna industry continues to be one of the nation's most valuable fishing industries and the United States has an interest in maintaining a strong U.S. fishery. It is important for us to be engaged in international efforts to conserve and manage the tuna fisheries in which U.S. fishermen are involved, and to try to establish reasonable and equitable arrangements for access to these fisheries resources for U.S. fishermen.

I would like to take a few minutes, Mr. Chairman, to describe briefly for you the status of the international agreements and negotiations on tuna in which the U.S. is involved. In the South Pacific, where approximately one-half of the U.S. distant water tuna fleet fishes, as the

Chairman is aware we have concluded a treaty with sixteen Pacific Island States which sets forth the terms and conditions for access by U.S. vessels to a 10 million square mile area of the South Pacific Ocean. As you know, Mr. Chairman, the Congress passed implementing legislation for this five-year agreement last year, and the treaty entered into force on June 15, 1988. I will not attempt to elaborate the details of this complex agreement today, as this has been done during other hearings, but I would like to reiterate that the successful conclusion of this treaty was one of the Department of State's major successes in international fisheries in recent years. The treaty resolved a difficult foreign policy problem for the United States and has laid the groundwork for an excellent long-term fisheries relationship between the United States and the South Pacific Island nations.

In the eastern Pacific, since the passage of the Magnuson Fishery Conservation and Management Act (MFCMA), the U.S. has been involved in several negotiating efforts to create a broadly-based conservation and management organization for the tuna fisheries of the region. These efforts have not, to date, been successful. However, we recently entered into discussions with Mexico which hopefully will lead to a multilateral regional agreement.

In the meantime, the Inter-American Tropical Tuna Commission continues to operate as an effective scientific organization responsible for studying and monitoring the status of the tuna stocks in the eastern tropical Pacific Ocean. The latest reports from the Commission indicate that the tuna stocks of the region are in a very healthy condition.

In the Atlantic, there is a growing U.S. commercial longline fishery for tuna which operates both within and beyond the U.S. Exclusive Economic Zone (EEZ), and in past years our distant water purse seine fleet has fished in the eastern Atlantic off the coast of Africa. The U.S. is an active member of the International Commission for the Conservation of Atlantic Tunas, which is responsible for the conservation and management of the highly migratory resources of the Atlantic Ocean.

The U.S. is also an active participant in the work of Indian Ocean Fisheries Commission and the Indo-Pacific Fisheries Commission, which are primarily concerned with tuna fisheries, as well as in the work of other international bodies and groups involved with tuna science and management.

The principal reason, Mr. Chairman, why tuna is the most internationally oriented fishery in the world is due to the highly migratory nature of the resource. This scientific fact cannot be over-emphasized, and although it is a widely known truth and generally accepted around the world, it warrants repeating because of the arguments advanced by some that tuna is more of a coastally-oriented species than has generally been thought to be the case. These arguments have no basis in fact and fly in the face of the documented scientific evidence produced by all of the international tuna organizations and supported by the world's leading tuna scientists. For example, in the eastern Pacific Ocean, the yellowfin tuna resources travel through the 200-mile zones of nearly a dozen nations and thousands of miles out to sea. The regional skipjack stocks, which spawn in the central Pacific Ocean, behave in a similar fashion. Bluefin tuna cross the entire ocean from Japan to the coast of North America. In the Western Pacific, the best scientific evidence available indicates that the tuna stocks are widely dispersed over a vast area which includes the 200 mile zones of many nations. The situation is similar in the Atlantic, where it is clear that all of the tuna stocks migrate great distances throughout the ocean and are not resident to the coastal areas of any particular nation.

The fact that tuna resources are highly migratory does not mean that coastal countries, including the United States, do not have local fisheries for tuna or a special interest in the tuna fisheries which do occur inside 200 miles. It does, however, mean that the stocks cannot be managed or conserved by any single country. A coastal state could manage tuna if the concept of management is used in its broadest sense, to regulate the activities of fishermen and fishing vessels, but effective conservation measures for tuna are impossible for a single coastal nation. We are not aware of any coastal country in the world which has even attempted to implement unilateral conservation measures for tuna.

It is for this reason, Mr. Chairman, that the Department of States does not support any change in the MFCMA to include jurisdiction over tuna within the U.S. EEZ. The lack of extended jurisdiction over tuna is consistent with our view of the scientific realities of the situation. And contrary to what one often hears on this subject, the U.S. is not completely alone in its view. Neither Japan nor Korea includes jurisdiction over tuna within their 200-mile claims, and together with the United States, these countries account for the majority of the world's tuna catch. In any case, even if this view represents a minority opinion around

the world, that does not mean that it is not a correct position or that it should not be the U.S. position.

We recognize that extended jurisdiction over tuna is not necessarily inconsistent with international management of tuna. It is our belief, however, that coastal state jurisdiction over tuna has the effect of making international management more difficult. Our observation has been that coastal states with extended jurisdiction over tuna tend to approach international management with a more inflexible national position which makes it more difficult to achieve the compromises necessary for effective international management.

A final point to be made on this question of extended U.S. jurisdiction is that there are virtually no foreign fisheries for tuna in the U.S. zone. In our Atlantic EEZ, for the past several years, two or three Japanese longliners have fished, under stringently regulated conditions. There have been no foreign tuna fisheries for a number of years in the U.S. zone in the Gulf of Mexico, Caribbean, Pacific or Western Pacific. Furthermore, we do not believe an effective case can be made that our position on tuna has seriously impacted U.S. management efforts over billfish or other species in our zone over which we exercise

jurisdiction. In our view, the argument over tuna management in the U.S. zone does not involve a conservation issue or a foreign fishing problem, but rather is a domestic user-group question involving the competing interests of recreational and local commercial U.S. fishermen.

Mr. Chairman, last year the Department conducted a review of U.S. tuna policy, with particular emphasis on the effect of this policy on U.S. foreign policy interests. It was concluded that the foreign policy problems associated with U.S. tuna policy mainly arise as a result of trade embargoes we impose pursuant to U.S. law. This is one aspect of the MFCMA which the Department of State would like to see changed. Section 205 of the Act provides for what is essentially a mandatory embargo on the fisheries products of any nation which seizes a U.S. vessel because of a claim of jurisdiction not recognized by the U.S. Since the passage of the MFCMA, the U.S. has put into place a number of such embargoes as a result of tuna vessel seizures. These embargoes often cause difficult foreign policy problems for the United States, and sometimes are even counter-productive to the interests of the U.S. tuna industry. For this reason, Mr. Chairman, we would like to suggest that the Congress consider modifying Section 205 to make the imposition of the embargo discretionary rather than mandatory.

One example of when the mandatory embargo provisions of Section 205 were contrary to U.S. interests was the imposition a few years ago of a tuna embargo against the Solomon Islands as a result of a vessel seizure by that country. This occurred in the middle of our sensitive and complicated negotiations with 16 Pacific Island countries regarding access for the U.S. tuna fleet. The other Pacific Island nations stood by the Solomon Islands in opposition to the embargo, and if we had not found a way to remove it, the entire negotiating process would have been disrupted or even terminated.

In the eastern Pacific Ocean, another example is the imposition of a tuna embargo against Costa Rica at a time when we were working with that government to obtain its ratification of the Eastern Pacific Ocean Tuna Fishing Agreement. Again, because of the timing and circumstances involved, it was counterproductive for the U.S. to be forced to embargo Costa Rica.

The Fisherman's Protective Act (FPA) is another element of our worldwide tuna policy which the Committee has asked us to address. The Act involves elements of foreign policy, international fisheries relations, and domestic budgetary questions. We believe that there have been a number of

changes in the international fisheries world since the Act was first passed, and that it is time to take a hard look at the way in which the Act should operate in the future. One aspect of the Act to which the Department is opposed is the continuation of Section 5 of the Act which requires us to seek reimbursement for compensated claims from the nation which seized the vessel in question. No country has ever seriously considered such a reimbursement, and the steps which must be taken because of Section 5 are counter-productive and harmful to U.S. foreign policy and fisheries interests.

In short, Mr. Chairman, we are convinced that the FPA needs to be re-written and modified. We would be interested in working with the Congress and the fishing industry to explore what might be possible. This effort could take some time to complete, so we believe that the FPA, which expires in October, should be extended for one more year in its present form. There have been few vessel seizures in the waters off Latin America for several years, and there should be no claims arising from seizures in the South Pacific for the forseeable future as a result of the regional treaty, so we believe that the practical consequences of continuing the Act will be minimal.

The Committee has asked that we comment on the re-authorization of the Atlantic Tunas Conservation Act, which implements the Convention establishing the International Commission for the Conservation of Atlantic Tunas (ICCAT). We believe that ICCAT has been an effective international management organization for tuna, and we support the reauthorization of the Act. In our view, the ICCAT conservation program for bluefin tuna is a good example of the importance of international management of tuna.

The Atlantic bluefin stock is fished under strict conservation controls through ICCAT covering the full range of the stock, which migrates widely throughout the Atlantic Ocean. As a result of the ICCAT program, the Japanese catches of western Atlantic bluefin have been reduced some 90 percent from previous levels. Without the ICCAT measures this would not have been possible, and nor would it have been possible to accomplish this through unilateral coastal state measures. Unilateral measures by the U.S. could have eliminated the Japanese catches of tuna in our zone, but the same level of take, or even increased catches, from the same stock could easily have been made by vessels fishing beyond 200 miles. We look forward to continuing to work through

ICCAT on bluefin tuna conservation as well as on the effective international conservation and management of other highly migratory species.

We have reviewed the draft bill, H.R. 2842, which would amend and re-authorize the Atlantic Tunas Convention Act of 1975 and have no objection to this legislation.

Thank you, Mr. Chairman, for the opportunity to appear before the Committee today to present our views on U.S. tuna policy. I would be pleased to try to answer any questions which your or other members of the Committee may have.

Testimony of
Carmen J. Blondin
Deputy Assistant Secretary for International Interests
National Oceanic and Atmospheric Administration
U.S. Department of Commerce

Before the

Subcommittee on Fisheries and Wildlife
Conservation and the Environment
Committee on Merchant Marine and Fisheries
House of Representatives

July 20, 1989

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before you on behalf of the Department of Commerce to address proposed legislation to amend and renew the Atlantic Tunas Convention Act of 1975, and to offer our view regarding the inclusion of tuna under the management authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). I will begin by first addressing U.S. tuna policy and U.S. participation in the International Commission for the Conservation of Atlantic Tunas (ICCAT).

The management of highly migratory species has been debated for more than 30 years. This debate has grown more intense in recent years, as more and more countries have extended jurisdiction. Advocates of international management agree that a single regime throughout the range is the only completely effective means of managing these species. On the other hand,

advocates of extended jurisdiction point out that international management has failed to take into account coastal state considerations and in many instances has failed to successfully manage these species. They also note that coastal state jurisdiction is not inconsistent with the development of international management regimes and need not be exclusive. Thus, the result is that there are both types of management regimes in effect around the world. The majority of countries have extended jurisdiction to tuna, but only a few, however, have adopted coastal state management regimes. Most countries recognize the need to participate in some form of international arrangement. Some of these international arrangements are set up to provide access and reciprocal compensation while others are more formally structured and establish quotas and related management measures.

Congress, in the Magnuson Act, defined tuna as a highly migratory species which are not subject to coastal state jurisdiction. Other species, such as billfish, swordfish, and sharks, are not treated as highly migratory species under the Act, and are subject to the fishery management authority of the United States. U.S. tuna policy has recognized that effective conservation and management of such species throughout their range can only be achieved through inter- national regimes with the authority to ensure the application of conservation measures in broad ocean areas.

In the Atlantic Ocean, the United States pursues the need for coordinated international management of tuna through the International Commission for the Conservation of Atlantic Tunas. Under the provisions of the Convention, ICCAT was established to maintain the populations of tuna and tuna-like species at levels sufficient to permit the maximum sustainable catch for food and other purposes. The Commission has acted responsibly in using the data collected by its scientific body, the Standing Committee on Research and Statistics, to recommend regulatory actions over species where sufficient data exists. The United States has been an active participant in the development of the Commission's recommendations. I have been personally involved in carrying forward U.S. positions to ICCAT as the Federal U.S. Commissioner to ICCAT for the past several years.

Since 1972, the Commission has adopted recommendations for three species of tuna - yellowfin, bigeye, and bluefin - based upon its interpretation of the scientific data available. The bluefin recommendations, which were prompted by declining trends in the early 1970's, establish a total scientific monitoring quota of 2,660 metric tons (mt). The U.S. share is 1,387.3 mt, the Canadian share is 573.3 mt, and the Japanese share is 699.4 mt. No directed fishing for bluefin tuna may occur in spawning areas such as the Gulf of Mexico.

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In other areas where recommendations have not been adopted, efforts continue to improve stock assessment. In 1986 the Commission approved a stock assessment program and budget, initiated by U.S. concerns over the deficiencies in the data base for billfish stocks. This program, for the last two years, has been completely funded by private-sector fishing organizations. The U.S. sport fishing community pioneered this creative funding solution given the severe fiscal constraints that currently plague ICCAT.

Under the Atlantic Tunas Convention Act of 1975, NOAA Fisheries has promulgated regulations, requirements, enforcement procedures, and gear restrictions to implement Commission recommendations. Considerable effort has been expended to promote the broadest possible access among domestic user groups to the bluefin fishery where catch quotas exist.

In conjunction with its effect on the restoration of stocks in the western Atlantic, the ICCAT conservation program for bluefin tuna has served to reduce significantly the catch of bluefin tuna in this area by Japanese longline vessels. Japan's allowable catch of bluefin tuna in the western Atlantic is less than 14 percent of its 1975-79 average. Effective control of this longlining would not be possible without the ICCAT program. Given the highly migratory nature of the Atlantic bluefin tuna, U.S. jurisdiction over the species could not address unrestricted Japanese fishing on the stock outside 200 miles.

The Department of Commerce has submitted to the Congress proposed legislation to reauthorize the Atlantic Tunas Convention Act through FY 1992 at such sums as may be necessary.

H.R. 2842, the proposed amendments to the Act, would provide for balanced representation by sport and commercial interests and are consistent with current practice. I presently serve with two Commissioners, one representing commercial interests and the other with links to the sport fishing community. In addition to representing both sectors of the fishing industry, these Commissioners also each represent a coastal perspective, one being from the East Coast and the other from the West Coast. The new requirement will guarantee that the broadest range of experience with the U.S. tuna fishery will continue to be represented at the Commission deliberations. The provision limiting the term of these appointments to 3 years and 2 consecutive terms will allow the U.S. delegation to gain from their expertise. At the same time, it will protect the variety of perspectives that are so necessary in representing U.S. interests. The Department of Commerce supports the technical changes proposed in H.R. 2842.

With respect to H.R. 2841, a bill to amend section 7 of the Fishermen's Protective Act, which authorizes a self-insurance program for the distant water tuna fleet, the Department of

Commerce defers to the Department of State, the Agency responsible for the operation of this program.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you may have.

Salt Water Sportsman
280 Summer Street
Boston, MA 02210
(617) 439 9977

July 11, 1989

The Honorable Gerry E. Studds
U.S. House of Representatives
Committee on Merchant Marine and Fisheries
Room 1334 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Studds:

On behalf of the United Sport Fishermen, a coalition of sport fishing interests that represent 2.75 million recreational fishermen, I would like to thank you for the invitation to testify before the Subcommittee on Fisheries and Wildlife Conservation and the Environment. Unfortunately unforeseen business matters will preclude my attendance. I would like to submit the following written testimony for the record.

First, United Sport Fishermen feel that the U.S. should remain involved in ICCAT. Although not perfect, ICCAT has been effective in helping to control the international harvest of Atlantic bluefin tuna. However, we do not feel that the ICCAT has or can deal with the growing domestic tuna fishing problems. We also support the expanded efforts into international billfish management. Our planet continues to shrink and if we are going to be able to maintain any renewable marine resources, it will have to be a coordinated effort on the international level as well as domestic management on the local level.

The United Sport Fishermen have not had any discussion on this section of the Fisherman's Protective Act. Therefore I decline to make any comment on this amendment.

The consensus of the United Sport Fisherman is that tuna should be brought under the Magnuson Fishery Conservation & Management Act. We see nothing but benefits from this inclusion. The greatest benefit that we see is allowing the Fisheries Management Councils to manage pelagic species in a holistic approach. It is very hard to manage billfish while they are a substantial by-catch of the tuna longlining industry. The U.S. is the only member of ICCAT that does not manage tuna within their EEZ. Other than the Bahamas, we are the only coastal nation that does not control tuna. It is felt that we must take the politics out of fishery management and let the scientists do their job.

At the time of original enactment, tuna were not a large economic force in our domestic fishery. That has changed today. Tuna represent a very valuable resource which should be managed by the regional Management Councils. It should be noted that we are currently managing other highly migratory species, such as billfish, and tuna should be no different.

We do not see this as a recreational versus commercial issue. We view it as a step toward a better management of our marine resources which will have a favorable economic impact for the U.S. We strongly urge you to include tuna under the Act.

Attached are several Editorials that state the position with greater detail.

Sincerely,

Rip Cunningham Jr.

C.M. "Rip" Cunningham, Jr.
Founding Director
United Sport Fisherman

Editor-In-Chief
SALT WATER SPORTSMAN

RC/sm

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United Sport Fishermen Member Organizations

Publications:

Salt Water Sportsman
Field & Stream
Florida Sportsman
California Angler
Sportfishing
Southern Saltwater
Charter Industry News
South Coast Sportfishing

Organizations:

Coastal Conservation Association
New York Sportfishing Federation
Atlantic Sportfishing Association
Pacific Steelhead & Salmon Coalition
California United Sport Fishermen
United Anglers of California
Hawaii Fishing Coalition
Pacific Salmon Sportfishing Council
Virginia Federation of Anglers
American Fishing Tackle Manufacturers Association
National Coalition for Marine Conservation
International Game Fish Association
Izzak Walton League
Sport Fishing Institute

RIP CUNNINGHAM

Editorial

The Time is Right

Back in 1976 when the Magnuson Act (more commonly called the 200 Mile Limit Bill) was enacted, one species of fish was purposely left out. Tuna. The published reason for this exception indicated that tuna were highly migratory and therefore should not be under our management. There was also the question of how joint management under the Magnuson Act and the International Commission for the Conservation of Atlantic Tuna (ICCAT) would function.

These may well have been factors in the decision to exclude tuna, but there are those who point to other ingredients. It would seem that the major player was the West Coast tuna industry lobby. During that period their fleets were fishing South American waters where foreign 200-mile limits were in effect. They wished to ignore these foreign laws and one of the best ways was to make sure that the U.S. did not bring tuna under its jurisdiction. This allowed them to continue their practice and also got the U.S. government to pay the fines when they were caught.

It also seems evident that our State Department was desirous of playing "Tuna Diplomacy." The Japanese fishing fleet was and still is targeting tuna along our East and Gulf Coasts. Whatever the reasons, our government took their side. We continue to live with the results today. It was also this "Tuna Diplomacy" that led the Pacific island nations Kitibati and Vanuatu to align themselves with Russia and its fishing interests.

Since 1976 much has happened and it is time to change the old policies. First, the U.S. is one of very few, if not the only, country that does not have jurisdiction over tuna within its 200-mile limit. That in itself is reason enough to change.

We have recently concluded a treaty with a group of Pacific island nations to allow our West Coast fishing fleet access to fish stocks within their 200-mile limits. The primary target will be the highly prized tuna. The signing of this treaty, called WESPAC, indicates de facto that we recognize management jurisdiction over tuna. This is a very big change.

Although ICCAT has done an admirable job controlling and allocating the tuna resource, it is currently in severe financial difficulty and if it should collapse, we would want control over the tuna in our waters. It also seems that if other nations can have jurisdiction over tuna and still be members of ICCAT, we can also.

Last and certainly not least, we need to consider the resource. It would appear that the bluefin tuna stocks are once again in trouble (see "Update: Bluefin" *SWS*, March 1988). In recent years there has been a shift in our domestic longlining efforts. As swordfish have become increasingly scarce, fishermen have targeted yellowfin tuna which is currently experiencing an explosion in popularity at the fish market. In certain areas bluefin are a frequent by-catch. We need to have the ability to control the effort directed at these fish, if we want to have a healthy fishery in the future. We do not believe that our past management practices of letting the horse out of the barn and then closing the gate need to continue with tuna.

Although past and current management decisions have been questionable, we believe that some management is better than none. Why not now?

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Once again, the question of including tuna in the Magnuson Act, or 200-Mile Limit Law, is stirring heated debate. Most forward-thinking fisheries managers feel inclusion is necessary. Representatives of the commercial industry view this as a threat to their current open season on all tuna species except bluefin. Since we also have foreign commercial interests fishing in our waters, the State Department has its fingers in the pie in an attempt to protect these interests. All these factors plus many more are fueling the debate over inclusion of tuna in the Magnuson Act.

In our humble opinion, inclusion is a true no-brainer and those who are against inclusion are muddying the water with irrelevant information. The facts speak for themselves and we will outline them. We should note that information published by the Western Pacific Fishery Management Council has been very helpful.

We are the only coastal nation except the Bahamas not to include tuna in our Exclusive Economic Zone (EEZ). Also, we are the only member of all the major tuna treaties and conventions not to include tuna in our 200-mile jurisdiction despite the fact that international management efforts could be enhanced by our inclusion and with uniform treatment by all nations.

Currently we make an artificial distinction between tuna and other highly-migratory species such as marlin, swordfish and oceanic sharks. Inclusion of tuna under our 200-Mile Limit Law will allow for holistic management of all pelagic species and will allow our scientists to gather more complete data for future management. It should also mean that enforcement of regulations would be easier. Under the current exclusion, foreign interests are allowed unrestricted access to tuna in our EEZ. Through this access they adversely impact the billfish species we are trying to manage.

Not only would all pelagic species be managed in an all-encompassing manner, but the user groups would be treated differently. Fishery managers could better regulate fishing efforts and find more equitable resolutions to problems such as user conflicts.

At the time that regulators passed the Magnuson Act, it was felt that there was not an extensive coastal fishery for tuna in U.S. waters. The true scenario was that there was little economic value to the resource at that time. There was also an overbearing influence from the long-range commercial tuna fleet on the west coast. Times have certainly changed. Throughout the EEZ of the U.S. there is now a very extensive tuna fishery that has a very substantial economic value. This fishery needs to be managed for the benefit of all U.S. user groups.

Certain circumstances and user groups will influence legislation to suit their needs at the moment. As time passes and conditions change, we must revisit the original legislation to see if there is a need to update it. We feel that this is the case with tuna and the Magnuson Act. Whatever the reasons for the original exclusion, we strongly feel that tuna should now be included and we need your help. Write your Senator and Representative and ask their support. It's the one choice that makes sense.

STATEMENT OF DAVID G. BURNEY
UNITED STATES TUNA FOUNDATION
before the
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON MERCHANT MARINE AND FISHERIES
July 20, 1989

Mr. Chairman, on behalf of the United States Tuna Foundation, a non-profit association consisting of U.S. tuna processors, U.S. tuna vessel owners and operators, and U.S. tuna vessel crew members and cannery workers, I want to express appreciation for the opportunity to testify here today regarding a possible amendment to Section 103 of the Magnuson Fisheries Conservation and Management Act (MFCMA) and reauthorization of the Atlantic Tuna Conventions Act.

Presently, Section 103 exempts tuna from the exclusive fishery management authority provided in the MFCMA. The exemption of tuna is predicated on the fact that highly migratory species of fish cannot be effectively managed or conserved in the same manner as standing stocks of fish. Since their annual migrations traverse the juridical zones of numerous coastal states and international waters, tuna can only be effectively managed and conserved through international cooperation.

We are aware that certain recreational fishing interests and the Regional Fisheries Management Councils that they dominate have called for an end to the Section 103 exemption.

They appear to argue that:

* Tuna may not be as highly migratory as once thought.

* Foreign tuna vessels continue to exploit tuna stocks

within the U.S. Exclusive Economic Zone (EEZ), thus interfering with efforts by U.S. commercial fishermen to establish a domestic tuna fishery.

* Both foreign and domestic longline vessels continue to frustrate efforts by regional fisheries management councils to manage billfish and sharks.

* Foreign tuna vessels continue to threaten the status of bluefin tuna that migrate through the Western Atlantic portion of the U.S. EEZ.

* The present tuna policy is a continuing source of international conflict.

Regardless of what may be said, tunas are as highly migratory as ever and management can only be effective if it is maintained throughout the range of the resource (see attachment). No single country claims to have an effective tuna management program. Some countries such as New Zealand and Australia have attempted to partially manage the resource when it passes through their waters by allocating quotas between user groups. These countries do not claim to estimate the maximum sustainable yield of the resource as it passes by on its migratory trek. Their programs are merely aimed at minimizing user conflicts.

Foreign tuna fleets are not exploiting the tuna stocks within the U.S EEZ. Other than a minimal bluefin tuna take (regulated by international quota), foreign vessels (Japanese only) operating in the U.S. EEZ have caught less than 700 tons of tuna annually since 1985. At the same time the domestic commercial longline fleet has continued to increase its catch in the same area, to a point where it has become a prosperous industry. It is only the recreational fishing interests that continue to press for a change in the U.S. tuna policy, not the viable commercial fishing

interests.

The recreational fishing interests concern over the incidental hooking of billfish and sharks by foreign and domestic longline tuna vessels operating in our EEZ is not new. This concern was first raised many years ago and resulted in a 1979 National Oceanic and Atmospheric Administration (NOAA) legal opinion which concluded that U.S. fisheries management plans could contain provisions to regulate foreign tuna operations in our fishery zone, when such operations interfered with U.S. fisheries management plan objectives. As a result of this legal opinion, a number of regulations were implemented under the U.S. billfish management plans. This resulted in a 93% reduction of the foreign longline vessels incidental bycatch. We do not know of any reason why this same approach can't be extended to the domestic longline vessels.

The recreational fishing interests have continually raised concern over the take of bluefin tuna by foreign tuna vessels operating in the Western Atlantic area. In response to this concern, the United States, working through the International Convention for the Conservation of Atlantic Tuna (ICCAT), succeeded in getting international quotas established for these species in the Western Atlantic area. The quotas not only protected the resource, they also significantly reduced the foreign take of bluefin tuna in the U.S. fisheries zone. In 1986 the foreign take of bluefin tuna in the U.S. fisheries zone was 184 metric tons and in 1987 it was 319 metric tons. The U.S. tuna industry, along with representatives of interested fishing groups located along the Atlantic seaboard participated in these ICCAT deliberations and all parties agreed that the ICCAT quotas are an effective conservation tool. There cannot be effective tuna management without the international cooperation that exists within multilateral regimes such as ICCAT. It is for this reason that we strongly endorse

reauthorization of the Atlantic Tunas Convention Act.

Never have the recreational fishing interests been further from the truth than when they claim that the tuna policy is a continuing source of international conflict. To the contrary, our tuna policy has led to one of the most comprehensive pieces of U.S. foreign policy ever achieved in the South Pacific region. The South Pacific Tuna Treaty, negotiated over a period of two and one half years, has been praised by this Congress and the governments of all sixteen Pacific Island countries that comprise the South Pacific Forum.

Recently, the Committee on Foreign Affairs, U.S. House of Representatives, reviewed the regional security developments of the United States in the South Pacific. They concluded that, "The tuna agreement did much to rehabilitate the image of the United States among the South Pacific island states." (Committee Report 95-630, March 1989, p.2.) The report went on to state, "This trend should if possible be continued. In particular the United States should at the appropriate time commence renegotiation of the five year tuna agreement ..." (p.6)

A tuna agreement was also concluded in the Eastern Pacific but was never implemented because of a failure to obtain the necessary number of ratifications. The failure to ratify had nothing to do with the U.S. tuna policy but was the result of other political concerns in the region.

Recently, the United States has commenced discussions with Mexico which could lead to a tuna treaty in the Eastern Pacific similar to the one presently in force in the South Pacific.

To understand the basis of our current juridical position on tuna, it must be recognized that less than 10% of U.S. tuna

production takes place within the U.S. fisheries zone. More than 90% of U.S. tuna production takes place in the Eastern Tropical Pacific Ocean and Western Pacific Ocean, where international agreements are vital to sound resource management and vessel access rights. According to representatives of the Department of State, the U.S. juridical position on tuna is an integral part of their ability to negotiate such international tuna regimes.

In addition, representatives of the National Marine Fisheries Service (NMFS) have testified before this Committee on numerous occasions that tuna can only be effectively managed and conserved through international cooperation. Consistent with this position, the United States has participated in the Inter-American Tropical Tuna Convention (IATTC), the Indian Ocean Fishery Commission, the South Pacific Commission, the Indo-Pacific Fisheries Council and ICCAT, all of which, have regulated tuna on an international basis.

The U.S. tuna industry is proud of the fact that it provides the U.S. consumer with an affordable, high-protein food source. We do not believe that this food source should be placed in jeopardy. Sound resource management and a weighing of the relative economic interests support the need to retain our current juridical position on tuna.

The Committe has also asked that we comment on the need to reauthorize the Fishermens Protective Act (FPA).

We view the FPA as a reaffirmation by the U.S. government that our tuna policy is correct and that the United States intends to maintain a distant water fishing presence. We accept the fact that the FPA is a privilege not a license. No vessel owner desires a seizure since the resulting economic loss can never be fully offset by the provisions of the FPA.

We ask this Committee to continue to support our distant water fishing interests through a reauthorization of this important Act. The South Pacific treaty is proof that faith in our distant water fleet is not misplaced.

Thank you.

ATTACHMENT

During the original talks for the United Nations Law of the Sea Convention in April 1973, the United States submitted a statement entitled "Special Considerations Regarding the Management of Highly Migratory Oceanic Fishes." The statement points out how difficult it is to manage tunas unilaterally. The only rational way to conserve tunas "is in the form of one single co-ordinated quota for the whole area inhabited by the population."

> "If the jurisdictional basis for management of these species did not coincide with their distribution the potential for mismanagement would be great. We might consider the not really hypothetical case of a tuna population which inhabits an area extending into waters over which several nations assert jurisdiction. If each of the coastal States were to set independently a catch quota for the water where it exercises jurisdiction over fishing, and another separate quota were to be established by some other mechanism for the areas beyond national jurisdiction, or if various minimum size limits were set for these various subdivisions of the tuna stock's range, the result in terms of conservation could hardly be very rational or effective. If the sum total of the separate catch quotas happened to be less than the maximum sustainable yield of the stock, conservation would certainly be effected, but there would also be a serious risk of waste of the potential harvest because of the great variability with which tuna become available to fishing in various parts of their range from year to year. For example, a 50,000 ton quota in some subdivision of the range would be meaningless in years when only 25,000 tons become available to capture there, and it would be economically pernicious in years when the same areas offers the possibility of catching 75,000 tons out of a total permissible yield from the stock of 150,000 tons. If, on the other hand, the sum total of the separate quotas happened to exceed the maximum sustainable yield of the stock, overfishing would occur."

> "It seems obvious that the only rational way to apply a catch quota system for conservation of a tuna population is in the form of one single co-ordinated quota for the whole area inhabited by the population. Since the populations do occur in several national jurisdictions and also beyond and they are fished by nations of several countries, the application of such a co-ordinated quota requires international management of the fishery for conservation purposes."

STATEMENT OF
AUGUST FELANDO
PRESIDENT, AMERICAN TUNABOAT ASSOCIATION
BEFORE
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT
OF THE
COMMITTEE ON MERCHANT MARINE AND FISHERIES
U.S. HOUSE OF REPRESENTATIVES

Hearings on U.S. Policies and Management of Tuna

JULY 20, 1989

Mr. Chairman and Members of the Subcommittee:

My name is August Felando and I am President of the American Tunaboat Association ("ATA"). The ATA is a non-profit fishery cooperative based in San Diego, California that represents the interests of owners of long-distance tuna purse seine vessels. For over 50 years, representatives of ATA have participated in international negotiations on tuna management, in trade discussions by the U.S. government over exports and imports of frozen and canned tuna, and in the formulation of national policy with regard to tuna by the Executive and Legislative Branches of the Federal Government.

The 63 member vessels of ATA operate throughout the tropical waters of the Pacific Ocean, from Central and South America to Papua New Guinea. Consequently, the policies that are implemented by the U.S. government are critical to our long-distance fishing operations. There is a long history of

government-to-government negotiations on the question of fishery management, particularly with regard to the highly migratory tunas. It is essential that U.S. tuna policies be supportive of our American tuna fleet. Without supportive government policies, tunaboat owners will face an uncertain situation internationally and would have few incentives to continue operations under the U.S. flag. Moreover, without strong U.S.-based processing companies, the U.S. tuna fleet would not have a market. Thus, national policies that foster tuna fishing and processing have always been especially important to the U.S. tuna industry.

We appreciate the opportunity to provide this statement to you discussing (1) the continued exclusion of tuna from Section 102 of the Magnuson Fishery Conservation and Management Act (the "Magnuson Act"); (2) reauthorization of implementing legislation for the International Convention on the Conservation of Atlantic Tunas ("ICCAT"); and (3) reauthorization of Section 7 of the Fishermen's Protective Act ("FPA").

In summary, ATA strongly opposes any effort to assert unilateral jurisdiction over the management of tuna beyond 12 miles by amending the Magnuson Act. We do not see what major national objectives would be achieved by such an amendment and are certain that inclusion of tuna under the Magnuson Act will undercut the efforts of our State Department to negotiate multilateral tuna treaties beneficial to our long distance fleet. ATA supports reauthorization of the domestic legislation implementing the ICCAT. The highly mobile nature of tuna stocks

makes international bodies such as ICCAT essential for the conservation of the species. Finally, we support continued authorization of appropriations for the Fishermen's Guaranty Program under Section 7 of the FPA.

The Magnuson Act

During the initial consideration of the Magnuson Act, Congress decided to exclude any jurisdictional claim to highly migratory species of fish, defined as tunas, within the newly asserted 200 nautical mile fishery management zone. This exclusion of tuna was based on the well-established precept that no nation can effectively manage a fishery resource that travels through the 200-mile zones of several countries. A policy was established in the Magnuson Act supportive of multilateral management of tuna, a policy that was (and still is) consistent with Article 64 of the United Nations Convention on Law of the Sea. That policy is still viable today and in large measure is the reason why the United States was able to negotiate successfully the South Pacific Tuna Treaty. Unfortunately, we have been unable to negotiate a treaty that covers tuna management in the Eastern Tropical Pacific Ocean, our fleet's traditional fishing grounds.

Pursuant to the tuna policies embodied in the Magnuson Act (and President Reagan's Proclamation on the Exclusive Economic Zone), the Department of State has provided continuing U.S. support of the Inter-American Tropical Tuna Commission ("IATTC")

and ICCAT, two highly valued multinational tuna management arrangements, and has sought to negotiate management agreements with other coastal and fishing nations that allow reasonable fishing access by our fleet. The Magnuson Act includes embargo provisions which come to bear against a nation's tuna exports only if that nation seizes a U.S. vessel on the basis of jurisdictional claims we do not recognize. Such seizures have been rare in the last few years, but they do happen, even when our vessels have simply been transiting some nation's 200-mile zone and not fishing. If a treaty is in place to which the U.S. is a party, then no embargo would occur, so long as the seizure is consistent with the treaty.

Consequently, the Magnuson Act provides a major incentive for nations to come to the bargaining table and discuss tuna management. Without this incentive, we see little reason for a coastal nation to agree to a conservation program that also provides reasonable access for U.S. tuna fishermen. This is especially the case with regard to Mexico, which for some time has been seeking to restrict fishing by our fleet within its 200-mile zone. We hope that one day we can achieve a broadly-based multilateral agreement for managing tunas and for providing access by our vessels near the coastal areas of the Eastern Tropical Pacific.

Recently, various groups have sought to change the Magnuson Act and to remove the tuna exclusion, thereby asserting unilateral management authority over tuna fishing within 200-

miles of the U.S. coast. Those seeking jurisdiction over tuna seem to fall into two groupings: (1) marine recreational fishing groups seeking to restrict competition with commercial fishermen; and (2) people who believe that assertion of jurisdiction over tuna will expand local tuna businesses, for either recreational or commercial sectors. An example of this latter group are certain individuals in Hawaii who have been pushing the issue of including tuna under the Magnuson Act for some time. Also included are certain representatives of the territories of Guam, American Samoa, and the Commonwealth of the Northern Marianas, who, under the umbrella of the Pacific Basin Development Council, recently indicated an interest in amending the tuna provisions of the Magnuson Act.

The establishment of U.S. policies in legislation requires the balancing of various interests. We recognize this fundamental reality. However, what concerns us is the clear trade-off presented by the suggested tuna amendment between our industry's critical reliance on the current Magnuson Act provisions and the vague objectives of proponents for change. We have great trouble determining what will be achieved by asserting jurisdiction over tuna. First, no one has made a case that the tunas off U.S. shores are being overfished, with one exception. The recreational fishing community has said that the commercial atch of yellowfin and bigeye tunas by U.S. long-line fishermen in the Gulf of Mexico and off Hawaii has increased substantially in recent years. The statistics of NOAA Fisheries

indicates that the total 1988 commercial catch of of such tunas by all types of tuna fishing gear in the U.S. 200-mile zone was only about 15,000 tons (as compared to our fleet's 1988 catch of 280,000 tons outside U.S. fishery jurisdiction). This hardly indicates a large fishery that is creating management problems in either the Atlantic or waters off Hawaii. Never has anyone suggested that yellowfin tuna are overfished in the biological sense. The only exception is Atlantic Northern bluefin tuna, which is currently being regulated by NOAA Fisheries pursuant to management controls adopted by ICCAT. Unilateral conservation measures for the Atlantic Northern bluefin tuna simply would be ineffective given the bluefin can be caught outside U.S. jurisdiction. If tunas are not overfished and the one overfished stock is now subject to an international conservation program, what goals are achieved by asserting jurisdiction over tunas?

Second, some have asserted that tuna jurisdiction is needed to conserve billfish stocks. This argument is based on the notion that heavy amounts of foreign fishing occurs for tuna, and billfish are caught incidentally. Yet NOAA Fisheries will report that foreign fishing for tuna in the 200-mile zone at present is minimal at best. In addition, we can assert management controls over billfish in a manner that protects these stocks without unreasonably restricting tuna fishing, and have done so in the past. It makes no sense to assert jurisdiction over tuna simply to make billfish regulations more convenient if other approaches

will achieve the same goals without changing existing tuna policies. Moreover, we suggest that the billfish situation makes the best case for international management of highly migratory fish stocks.

Third, certain groups in Hawaii believe that control over tuna will somehow bring a financial bonanza to commercial and recreational fishermen in that state. Tuna fishing is of importance to the State of Hawaii, but that importance does not appear to be threatened by overfishing or rapacious foreign fishing. According to a recent report by NOAA Fisheries in Honolulu, the important variable in Hawaii's tuna fisheries appears to be "economic factors that have little to do with the conditions of the stocks". These economic factors will continue to be the dominant influence in Hawaiian tuna fisheries regardless of whether jurisdiction over tuna is or is not asserted. Moreover, the reports indicates that availability of tuna off Hawaii varies, without regard to fishing effort but depending on ocean conditions favorable to tuna habitat. This is the very reason why tuna fishermen out of Southern California developed the long-distance tuna bait boats and seiners--to catch the fish wherever they migrate. You cannot ignore biology (and economics) and hope to legislate a tuna fishery into becoming a coastal rather than a high seas activity.

Finally, we are aware of sentiments among some political leaders in American Samoa, Guam, the Northern Mariana Islands, and even Hawaii that all the Pacific Islands should show

solidarity in seeking jurisdiction over tuna. Perhaps some even believe that jurisdiction over tuna will allow them to participate in the South Pacific Tuna Treaty between the U.S. and other island nations. We can understand sentiments about solidarity given the "island way". We do not understand what benefits would inure to American Samoa (where a large portion of U.S. tuna canning is located), or Guam or the Northern Mariana Islands (where tuna transshipping operations occur) because there are no large concentrations of tuna near any of them. The present economic benefits from the U.S. tuna industry to these territories would probably diminish if the Magnuson Act were changed. It is also unlikely that the U.S. would to agree providing treaty benefits to our own territories. It is more likely that U.S. tuna processing operations and fleet basing would transfer to other locations where the economic incentives are greatest, should jurisdiction be altered. Changing the tuna provisions of the Magnuson Act would result in a net economic loss to American Samoa, Guam and the Northern Mariana Islands

In summary, we unequivocally believe that the arguments for continuing the Magnuson Act tuna provisions as they are outweigh the arguments for change. The value of those provisions to the U.S. tuna industry has been well proven in recent years. In contrast, the importance of changing the tuna provisions has not been well articulated nor shown to be the only course open to deal with the problems identified. In these circumstances, Congress should not embrace any change in the tuna provisions of

the Magnuson Act.

Continuance of ICCAT

The ICCAT has been functioning since 1969. The conservation efforts of that body have focused on the bluefin tuna. ICCAT is also a repository of information about tunas and a forum for discussion by 23 countries, each of which has but a limited knowledge of the resource and the industry that harvests tunas in the Atlantic Ocean. Complicated as this international system may seem, it has provided a necessary forum for dealing with tuna conservation issues and has responded where scientific data has indicated a need for conservation measures. We support continued U.S. involvement in this treaty.

The Fishermen's Protective Act

Section 7 of the FPA created the Fishermens Guaranty Program for the reimbursement of certain losses as a result of a seizure by a foreign country pursuant to jurisdictional claims not recognized by the United States. It is administered by the Department of State. To participate, fishermen must enter into an agreement with the Secretary of State and pay an annual fee for the Guaranty. The program has been functioning on the fees collected from fishermen, although the government has made contributions on occasion. Most of our fleet operating in the Eastern Tropical Pacific participates in this program. The need for the program continues so long as we do not have adequate tuna

management treaties in place. This is the case in the Eastern Tropical Pacific Ocean. We urge the Committee to approve H.R. 2841 after amending it to reauthorize Section 7 of the FPA for three years.

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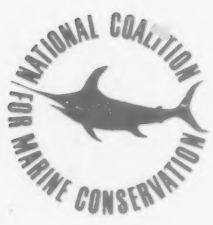

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Statement of the
NATIONAL COALITION FOR MARINE CONSERVATION

Before the
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT
of the
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

on
HIGHLY MIGRATORY SPECIES MANAGEMENT
under the
MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT
and the
ATLANTIC TUNAS CONVENTION ACT

Presented by

Ken Hinman
Executive Director
National Coalition for Marine Conservation
Savannah, Georgia

July 20, 1989

Mr. Chairman and members of the Subcommittee, the National Coalition for Marine Conservation (NCMC) appreciates this opportunity to present our views on the management of highly migratory species under the Magnuson Fishery Conservation and Management Act (MFCMA) and the Atlantic Tunas Convention Act (ATCA).

My name is Ken Hinman. I am the executive director of the NCMC, a non-profit organization supported by conservation-minded fishermen representing every coastal state in the nation. I am also chairman of the billfish advisory panel to the South Atlantic Fishery Management Council, and served as program coordinator for the International Symposium on Billfish Science and Management held a year ago in Kona, Hawaii.

The NCMC participated in the original Congressional deliberations which resulted in the enactment of the MFCMA in 1976, and which extended jurisdiction over all fisheries within our 200 mile zone - with the exception of the six species of tuna found within our coastal waters. We have since appeared before this Committee and the Senate Commerce Committee, and submitted written testimony on a number of occasions, regarding the exemption of tuna from United States management authority. Our position has been consistent throughout, a position affirmed and strengthened by time and our accumulated experience with the management of pelagic fisheries under the MFCMA since 1976.

We firmly believe the MFCMA should be amended to include the conservation and management of <u>all</u> species of oceanic fish found off our shores, with no exceptions. The tuna exemption is inconsistent with other US fishery law, and contrary to accepted international practice. It interferes with and severely inhibits efforts to conserve other pelagic fish, as required by the Act. It allows the uncontrolled exploitation of

tuna fisheries within the US Exclusive Economic Zone (EEZ), by foreign and domestic fishermen, thereby jeopardizing the long-term productivity of these valuable resources.

The tuna exemption has already taken a toll on fisheries of supreme importance to US fishermen. Two species of fish in the Atlantic - the bluefin tuna and the broadbill swordfish - are today severely overfished; the bluefin because management has been left entirely in the hands of an international organization ill-equipped for timely and effective action, and the swordfish because of the constraints imposed on domestic management efforts by US tuna policy.

We urge Congress to repeal the tuna exemption contained in Section 102, and make whatever other changes are necessary to provide for the management of tuna and other pelagic resources consistent with the conservation objectives of the MFCMA. Including tuna under the Act will allow for more effective managment of non-tuna pelagics within the US EEZ; improve monitoring and data collection on tuna fishing and its by-catch, information now lacking; foster the long-term conservation of tuna for the benefit of American fishermen; and enhance efforts to conserve highly migratory species throughout their range.

The debate over tuna management in this country has, from the beginning, been infected with a fundamental misconception; namely that domestic management is incompatible with international cooperation.

The opponents of tuna inclusion argue that tuna can only be effectively managed through international agreement; that domestic management is not just ineffective, but actually a deterrent to

international management. This notion is demonstrably false; and quite frankly, it is being exploited by those who oppose tuna managment of any kind, at either the domestic or international levels.

Every other nation which is party to a multi-national treaty governing tuna, such as the International Commission for the Conservation of Atlantic Tunas (ICCAT), claims domestic jurisdiction over tuna. Only the US views a claim to domestic jurisdiction as precluding international management; a view it does not hold, curiously enough, with regard to any other highly migratory species.

We endorse the sovereign right of the US (and other coastal nations) to manage highly migratory species within our EEZ, as provided in Article 56 of the United Nations Law of the Sea (LOS) Convention. We also readily acknowledge the need for international cooperation to monitor and regulate fishing on the high seas, as provided in LOS Article 64. It is not an either/or proposition; the two are not mutually exclusive, but rather two halves of a whole.

Domestic management of tuna can complement efforts to obtain conservation agreements in the international arena. Indeed, this is precisely the approach taken by the US with regard to other highly migratory species (swordfish, billfish, salmon, etc.). This approach should be extended to tuna as well. Amending the MFCMA to include tuna is fully compatible with the Act's directive to encourage international cooperation in the management of highly migratory species [Section 2(b)(2)], since it will enhance our credibility and effectiveness at ICCAT and other international forums.

Accordingly, we support continued US participation in ICCAT, through reauthorization of the Atlantic Tunas Convention Act of 1975 .

We emphasize that extending US jurisdiction to include tuna is by no means an end unto itself. It must be accompanied by a concerted effort to better coordinate domestic management with international cooperation, and to improve the quality of science which supports management decisions made by US authorities and international commissions.

The bottom line is that we as a nation must be more aggressive in pursuing conservation at home and throughout the range of highly migratory species. To do this, we must take responsibility for managing fisheries within our own EEZ, monitor and collect data on the catch and effort, and initiate conservation measures for all species when appropriate. This will not only enhance our ability to obtain ocean-wide agreements, it is vital to success.

Another misconception advanced by the opponents of tuna inclusion is that there is a recreational/commercial schism on the tuna issue; in other words, that recreational fishermen have something to gain by a change in the law, while commercial fishermen have something to lose. Nothing could be further from the truth. This issue is not one of special interests, but of achieving sound management policies to preserve US fishery resources, for all fishermen, both commercial and recreational.

Tuna are an extremely important commercial resource in this country, as well as a valuable recreational resource. The US billfish fishery is worth hundreds of millions of dollars to the nation's economy. Swordfish has been a staple of offshore commercial fisheries for decades. Both groups of fishermen stand to gain from improved management of highly migratory species. Both stand to lose significantly if our tuna, swordfish and billfish fisheries remain unmanaged.

The US tuna exemption is inconsistent with US policy toward other highly migratory species, and at odds with established international law.

The United States is one of only two countries (the other being the Bahamas) which does not claim extended jurisdiction over coastal tuna fisheries. Section 102 of the MFMCA reads in full: "The sovereign rights and exclusive fishery managment authority asserted by the United States under section 101 over fish do not include, and may not be construed to extend to, highly migratory species of fish." (emphasis added)

In Section 3(14) of the Act, "highly migratory species" are defined as tunas. Ostensibly, tuna are excluded from extended jurisdiction for unique biological reasons, i.e., their migratory nature. But how to account for the fact that Annex 1 of the LOS Convention defines the marlins, swordfish and the sharks, as well as the tunas, as "highly migratory species," or that the MFCMA empowers jurisdiction over these other, equally wide-ranging fish?

Clearly, it is not the biology of the tunas which have earned them the lone exemption to US fishery law, but rather the way the tuna fisheries are prosecuted. The sole purpose of the exclusion is to accommodate US fishing fleets pursuing tuna off the coasts of other nations in the Pacific Ocean. The State Department has admitted as much, even as it continues to promote the fiction that it is the fish that are different, not simply who catches them, and where.

Other nations see our tuna policy as not just inconsistent with the remainder of US fishery law, but self-serving and out of step with international law as well. Nations off whose shores American tuna boats fish view this country as wanting to have it both ways; that is, protect

fisheries at home for our own fishermen, but allow Americans free access abroad, regardless of the laws of other sovereign nations. Again, the US is virtually alone in the world in not recognizing coastal state jurisdiction.

The rationale for the tuna exemption has little to do with enhancing fishery management either in the EEZ or on the high seas, and everything to do with so-called leverage in securing access to fishing grounds for our distant water tuna fleet. But the leverage, if any, comes not from exempting tuna, but from the embargo provisions of the MFCMA and the loss compensation provided by the Fishermen's Protective Act. If securing access for US fishermen is deemed a legitimate interest of the US government, then let Congress find another way to assist the industry, without wreaking havoc on domestic management efforts and undermining respect for US policy in the eyes of the world.

The US tuna exemption is an insurmountable obstacle to the effective management of other pelagic species as required by the MFCMA.

The MFCMA's mandate to manage billfish, swordfish and sharks already puts the US in the business of managing highly migratory species. But the exemption for tuna inhibits our ability to do this, causing nothing but problems for US fishery managers and American fishermen while these fisheries are depleted.

Seven of the eight Fishery Management Councils established by the MFCMA (all but the North Pacific Council) are responsible for managing and conserving large ocean pelagic fish: swordfish, four species of marlin, sailfish, spearfish, dolphin (mahi mahi), wahoo, and several species of

oceanic sharks. The Councils began the process of developing separate Fishery Managment Plans (FMPs) for billfish and broadbill swordfish in 1977. That process has continually come into fatal conflict with the US tuna exemption, resulting in overfishing and, in the case of swordfish, severe stock depletion.

The Councils' ability to conserve populations of billfish and swordfish has been and remains to this day severely limited by their inability to implement measures which impact on tuna fishing. The problem lies in the fact that, though the law draws an arbitrary distinction between the fisheries for marlin, swordfish and shark on the one hand and tunas on the other, these fisheries are inextricably linked by virtue of the type of gear used to capture tuna commercially in the US EEZ.

That gear is the longline, and two facts about the longline fishery go to the root of the problem. First of all, longlines are non-selective; the hooks do not discriminate between, say, a bluefin tuna and a blue marlin. Secondly, billfish, swordfish, and several species of shark, as well as dolphin and wahoo, inhabit the same offshore environment and similar ocean depths as the tuna sought by longliners. The result is a constant and substantial by-catch of these non-target fish.

The official State Department enunciation of present tuna policy is that the US must provide a reasonable opportunity for fishing vessels to pursue tuna in the EEZ, and impose the least burden on such vessels while also achieving conservation and management of the species covered by Council FMPs developed under the MFCMA. This has not been possible, simply because the Councils have not found a way to significantly reduce the killing of billfish and swordfish on tuna longlines while satisfying these criteria.

The Tuna Exemption Undermines Billfish Conservation

The longline by-catch of non-tuna species can be substantial. At the height of the Japanese tuna longline fishery in the Gulf of Mexico in the late 1970s, the incidental capture of marlins reportedly totalled 5,300 fish a year, probably a conservative estimate. To minimize this by-catch and reduce conflicts between Japanese and American fishermen, the five Atlantic Councils produced a Plan which would have closed the Gulf to longliners from May to October and the EEZ along the Atlantic Coast during the months of June through September.

This Plan was rejected by the Administration, which told the Councils that any billfish regulation which imposed a restraint on tuna fishing was contrary to US policy. Instead, a Preliminary Management Plan (PMP) was developed by the National Marine Fisheries Service (NMFS) which prohibits foreign longliners from retaining any billfish, swordfish and sharks caught in US waters. Unfortunately, most are dead upon release, and of the rest, many are presumed to die shortly thereafter. The conservation impact of the non-retention rule is modest as long as longline effort remains high.

The number of foreign longline vessels operating in US waters has declined in recent years but the tuna/longline problem has not diminished - in fact, it is worse than ever. The rising demand for fresh tuna in the US, along with the decline in the swordfish fishery, has sent many American fishermen on the east coast chasing tuna, principally yellowfin and bigeye. The extraordinary increase in US tuna longlining in the 1980s has brought a corresponding rise in the by-catch of marlin, sailfish and other pelagics. The Councilshave no more authority to limit the amount of tuna longlining by American fishermen than they do foreign fishermen.

The Councils finally did implement an Atlantic Billfish FMP in 1988, designed to preserve marlin and sailfish in abundance for the multi-million dollar recreational fishery. The FMP contains limits on the recreational catch of billfish, promotes the live-release of fish by rod and reel anglers, and outlaws the capture and sale of billfish by commercial vessels. This essentially places the same restrictions on domestic longline vessels as placed on foreign vessels by the FMP, i.e., they cannot retain billfish. Though the no-sale provision does reduce the incentive for commercial fishermen to keep billfish taken alive, it does not reduce billfish/longline interactions. NMFS estimates that about 50% of the billfish hooked in the domestic tuna longline fishery are dead when released.

The yellowfin tuna longline fishery in the Gulf of Mexico is putting unprecedented pressure on the pelagic resources of that area. The catch of yellowfin in the Gulf has grown from 27,000 pounds in 1981 to 3,257,000 pounds in 1985 to 17,300,000 pounds in 1988. (see Appendix A) The National Coalition for Marine Conservation estimates that as many as 12,000 billfish (marlin, sailfish and spearfish) may be killed in the yellowfin tuna longline fishery each year. This is based on an estimated 250 longliners active in the fishery, making an average of 100 sets during the course of a fishing season (both estimates by the South Atlantic Fishery Management Council and contained in the Source Document for the Atlantic Billfish FMP, 1988), and hooking an average of .98 billfish per set (from NMFS observer reports through 1987). That makes a total of 24,500 fish hooked. Since the survival rate for billfish on longlines is approximately 50%, we estimate that as many as 12,000 billfish are killed.

The NMFS estimate is lower - about 5,000 fish. However, we believe their estimate to be quite conservative, since it is taken primarily from swordfish logbook data (swordfish longliners fish at night and billfish are day-feeders). The discrepancy between the NMFS estimate and our own only underscores the problem of getting an accurate account of the catch and by-catch from the unregulated tuna fisheries.

Still, even by the most conservative estimates, thousands of billfish are being killed and wasted in the tuna longline fishery, more fish than are landed by all US recreational fishermen combined. This greatly diminishes the effectiveness of the Atlantic Billfish Plan, at best, and is contributing to the depletion of billfish stocks at worst. The Billfish Plan is designed to protect the valuable billfish resource, but this goal is undermined by the tuna exemption and our hands-off policy toward longlining.

The MFCMA should be amended to include tuna so that the Councils and NMFS have the authority to include in the Atlantic Billfish FMP 1) provisions aimed at obtaining an accurate assessment of the longline by-catch, and 2) measures to minimize the amount of by-catch. These measures would include:

- ~ requiring US tuna longline vessels to report all fish hooked
- ~ placing observers on an adequate number of tuna boats to insure against under-reporting, and provide a statistically valid sample of by-catch in the fishery
- ~ working with the tuna industry, under the NMFS Conservation Engineering Program, to make longlining more selective, through changes in the gear and/or the way it is deployed

~ developing regulations to reduce the by-catch, such as closing certain ocean areas at certain times to longline activity, and assisting managers in devising additional ways to minimize longline interactions with billfish, augmented by studies into the feeding habits and migrations of billfish, and the depths and water temperatures they inhabit.

The Tuna Exemption Contributes to Swordfish Overfishing

Efforts to manage and conserve Atlantic swordfish, which began in earnest in 1980, have been continually stymied by the tuna exemption and the inability to impact tuna longlining. Today, the swordfish resource is severely overfished: "Spawning stock biomass has declined continuously since 1979 and is currently about 40% of the 1978 level. The current rate of fishing mortality will cause a continued decline in the spawning stock, placing the stock in increased jeopardy of recruitment failure." (ref. "Swordfish Stock Assessment Review Panel Report," April 1989; see also Appendix B)

If the Councils were allowed to restrain tuna longlining to even a minimal degree, the swordfish decline could have been arrested several years ago, and the nation and the industry would not be facing an "emergency situation" in this fishery, as we are now.

In 1985, the Councils developed a plan featuring a Variable Season Closure (VSC) system, which would have suspended swordfishing during certain periods of the year, and limited all tuna longlining to daylight hours during these closures to reduce the by-catch of night-feeding swordfish. The VSC concept was approved in 1986 by the Administrator of the National Oceanic and Atmospheric Administration (NOAA), the

parent agency of NMFS in the Department of Commerce. But before dates for the closures were finalized, the Federation of Japan Tuna Fisheries Cooperative Associations filed suit against the Secretary of Commerce, claiming the measure violated US law by unreasonably restricting their opportunity to fish for tuna in the US EEZ. In addition, American tuna fishermen complained the limits on night-time longlining would hurt them economically, too. NOAA/NMFS/DOC ultimately bowed to this pressure, citing the tuna exemption in Section 102, and rejected the plan.

Fishing for swordfish continues without restraint, in large part due to the unreasonably narrow management options afforded by the tuna exemption, making a total collapse in the fishery, with its attendant economic and social dislocations, more and more likely. The Chairmen of the five Councils involved in developing the swordfish FMP have stated that "the barriers to management presented by.....Section 102 must be recognized as the major contributing factor" in the sorry state of swordfish, and express grave doubts about being able to fully rebuild the stock without amending the Act to include tuna. Here I refer the committee to the "Inter-Council Position Paper on Amendments to Section 102 of the MFCMA," dated June 26, 1989, and request that this document be made a part of the record of this hearing.

Sharks the Next Victim?

The slow growth and low reproductive rate of most species of oceanic sharks makes them extremely vulnerable to overfishing. The commercial and recreational fisheries for sharks are expanding very rapidly, with a dramatic increase in landings in recent years. Sharp increases are attributable to growing demand for shark fins for export to

Asian countries. Commercial shark landings in the southeast went from less than a half million pounds in 1979 to nearly 10 million pounds in 1988, according to NMFS.

There is widespread concern among the conservation and fishing communities that the shark fisheries may soon be depleted if catches continue unregulated. The Mid-Atlantic Fishery Management Council (MAFMC) is taking the lead in drafting an FMP for Atlantic sharks to prevent overfishing. Again, because of the unique biology of sharks, preventative action is vitally necessary to avoid quick depletion of the stocks. The MAFMC in April requested emergency action by the Secretary of Commerce to end the practice of shark "finning," to set a quota for the commercial fishery, and to limit the catch of recreational fishermen.

Sharks are also known to be a regular by-catch in tuna longline fisheries. To the extent that the longline mortality contributes to the overfishing of shark populations, and that this portion of shark mortality cannot be regulated, the effectiveness of shark conservation efforts will be diminished.

The tuna exemption leaves a void in tuna conservation and jeopardizes the long-term productivity of the commercial and recreational tuna fisheries.

When Congress passed the MFCMA in 1976, the high seas tuna fleet dominated the US tuna industry, if not the global industry, while the US coastal fishery for tuna was relatively insignificant. That situation has changed dramatically in the ensuing years. The US coastal tuna fisheries, both commercial and recreational, with all of their fishing activity taking

place in the EEZ, have emerged as fisheries of tremendous value to the national economy. These fisheries, and the tuna resources they depend on, must be protected. Under current law, they aren't.

Our hands-off policy on tuna fishing leaves responsiblity for conserving tuna stocks solely in the hands of international organizations, in this case ICCAT. Although ICCAT was established for the purpose of managing tuna and tuna-related species, political pressure from member nations prevents it from doing so unless faced with an undeniable crisis, such as occurred with bluefin tuna. The bluefin experience speaks poorly for ICCAT's ability to manage tuna fisheries.

Where international management of highly migratory species is concerned, the MFCMA is clearly self-contradictory. In its preamble [Section 2(a)(4)], the Act gives as a principal reason for extended jurisdiction the ineffectiveness of international fishery agreements in conserving ocean fisheries. Yet later on, it declares that only international agreements can effectively manage tunas. The authors were right the first time.

Tuna quotas in the Atlantic are set by ICCAT. The fact that international organizations can only encourage voluntary participation and compliance tends to ensure that recommended conservation measures will reflect only what is acceptable to all nations active in the fishery, including those with limited interest in conserving the stocks for the long-term benefit of other member nations.

International Conservation of Bluefin Isn't Working

ICCAT was unwilling and/or unable to reverse the dramatic decline in Atlantic bluefin tuna populations before they bottomed out at perilously

low levels in the late 1970s. The timid measures adopted in 1982, weakened by political pressure on behalf of economic interests, have failed to put this threatened species on the road to recovery. ICCAT scientists themselves report that the spawning stock is still shrinking, while the number of young fish, on which the recovery depends, remains dangerously low. (see Appendix C) Most knowledgeable observers agree that the current quota set by ICCAT is much too high to effect a recovery, and that the stock still teeters on the brink of collapse. Yet ICCAT is content to maintain the status quo indefinitely.

A key feature of the ICCAT conservation agreement is a prohibition on directed fishing for giant bluefin in the Gulf of Mexico, a prime spawning area for this threatened species. The incidental catch of bluefin by the yellowfin tuna fishery is known to be quite substantial. A biologist monitoring bluefin landings for NMFS reported to ICCAT in 1987 that 1,755 giant bluefin were killed and discarded by the yellowfin fishery, above and beyond the by-catch permitted under the US share of the ICCAT quota. This unreported mortality, widely believed to be a conservative figure, would have put the US over its annual quota by nearly 20% that year. The high price being paid for bluefin, inflated by its rare status, encourages fishermen to actually target bluefin and retain only the biggest fish under their by-catch quota, discarding the smaller ones. (In addition, it is suspected that a sizable number of small to medium bluefin are being landed as other species on the east coast.) Without a system for monitoring the tuna fisheries, and the authority to control the by-catch, we cannot protect the spawning stock with any degree of confidence.

A Void in Tuna Management

Most of the attention has been on bluefin conservation, given the disastrous condition of the stock. But other species of tuna, particularly yellowfin and bigeye, are now the bread and butter of the domestic tuna fishery, and whether these stocks are managed for long-term productivity or short-term profit should be the concern of US fishery managers. Unfortunately, they are powerless to protect these fish from overfishing because of the tuna exemption. As it is now, they are dependent on international action, which has never been taken until, like the bluefin, the stocks are in dire jeopardy.

The yellowfin fishery, which has expanded due to the increasing demand for fresh tuna in the US and the decline of other pelagic species, particularly swordfish, is cause for special concern. It is an extremely rapidly developing fishery, growing exponentially from year to year (see Appendix A). The yellowfin is also believed to be the least migratory of the tuna species, and therefore more susceptible to local depletion. NMFS has expressed concern that the Gulf stock can be overfished. Walter Nelson, chief scientist at the NMFS Southeast Fisheries Center in Miami, which is responsible for pelagic research in the Atlantic, has said: "If you're fishing at a pressure that consistently crops off the fish as they move into the Gulf, then, yes, you will move the whole population of the Gulf into a fairly low level. You have to think of the Gulf as any other fishing lake. If one hot spot is getting all the attention, then you could eventually take all the fish from that hole. The key question is, 'How long would it take fish from other parts of the lake to move into that spot and replenish it?' That's a definite concern." (ref. SOUTHERN SALTWATER MAGAZINE, May/June 1989)

An increasing number of experts are proposing that long distance migrations of many highly migratory species, including tuna, are the exception rather than the rule; that in fact populations of fish found within large EEZs, such as that of the US, may be resident populations - juveniles feeding and growing, or adult fish spawning. (see Appendix D) If this is true, we can overfish them or, if we're smarter, we can manage them.

Unilateral action by the US to conserve the tuna fisheries in our EEZ would make a significant impact on reducing overall fishing pressure on the stocks, and could contribute substantially to obtaining international action through ICCAT and other forums.

Under ICCAT regulations, the US monitors the catch of bluefin tuna. No such monitoring effort exists for yellowfin, bigeye and other species. Consequently, no data base is being compiled with which to measure the condition of these fisheries, and on which to base management measures, either through ICCAT or US regulations. Including tuna management under the MFCMA would give NMFS and the Councils the ability to develop comprehensive data collection programs for the tuna fisheries. This carries with it, of course, an obligation to provide NMFS with sufficient funding to develop this data base.

US management of highly migratory species should be coordinated with and complement international efforts to conserve the species throughout their range.

At the beginning of our testimony, we stressed that domestic and international managment are completely compatible; that the one should complement and enhance the other. This is the rule in global fisheries

management, not the exception.

We also endorsed reauthorization of the Atlantic Tunas Convention Act, which sanctions US involvement in ICCAT. The principal benefit of ICCAT participation to the US, our fishing industries, and the fisheries utilized by American fishermen is the stimulation and exchange of scientific and statistical information on Atlantic tunas and the tuna fisheries, and to a somewhat lesser extent on swordfish and billfish.

The drafters of the ICCAT treaty recognized the need for sufficient data to accurately assess stocks of tuna. Unfortunately, ICCAT was not endowed with an independent data gathering and analysis capability. The Commission relies instead on science contributed by member nations and recommendations by a standing committee of scientists representing those same nations. The result is that scientific assessments are tainted by national interest politics, in the selective presentation and analysis of data.

We suggest that Congress include in its reauthorization of the ATCA a directive to the Administration to undertake a review of the ICCAT treaty with regard to negotiating a re-structuring of the Commission so that the scientific function is insulated from political (non-scientific) considerations in a separate, centralized entity. The North Atlantic Salmon Conservation Organization, for example, utilizes the independent and highly respected International Council for the Exploration of the Sea, or ICES. We further recommend that Congress act to ensure that sufficient funds are provided to NMFS to support the level of research necessary for good management.

In addition, we urge the US to work toward establishing a trans-Pacific fisheries commission to collect and analyze fisheries data from

all participating fishing and user nations and to recommend appropriate conservation measures. ICCAT has serious shortcomings, but the Pacific doesn't even have an ocean-wide fisheries forum. The recommendation to create one received broad support from the participants at the 1988 International Billfish Symposium. (ref. "Planning the Future of Billfish: Research and Management in the 90s and Beyond," Kona, Hawaii, August 1-5, 1988)

ICCAT and other international organizations have so far done a poor job as the sole authority for managing highly migratory species. Our continued participation in ICCAT would be enhanced by extending US management jurisdiction to tunas. This would allow the US to take a leadership role in promoting international conservation measures, rather than waiting for others to act. It would enable the US to enact measures which are more stringent than those recommended by ICCAT, while in keeping with international conservation objectives. As the ATCA is interpreted now, regulations imposed on US fishermen cannot be more restrictive than those recommended by ICCAT, and as we have seen, these are likely to be the most liberal, not the most cautious.

We recommend additional changes in the ATCA and the MFCMA which would further enhance the effectiveness of management at ICCAT. The Fishery Management Councils should be given official representation on the US delegation to ICCAT. To facilitate Council development and approval of FMPs for highly migratory species, which are the responsibility in the Atlantic of all five Councils, the MFCMA should be amended to allow multi-Council Plans to be approved by a vote of all Council members acting as one super-Council. A majority of Council

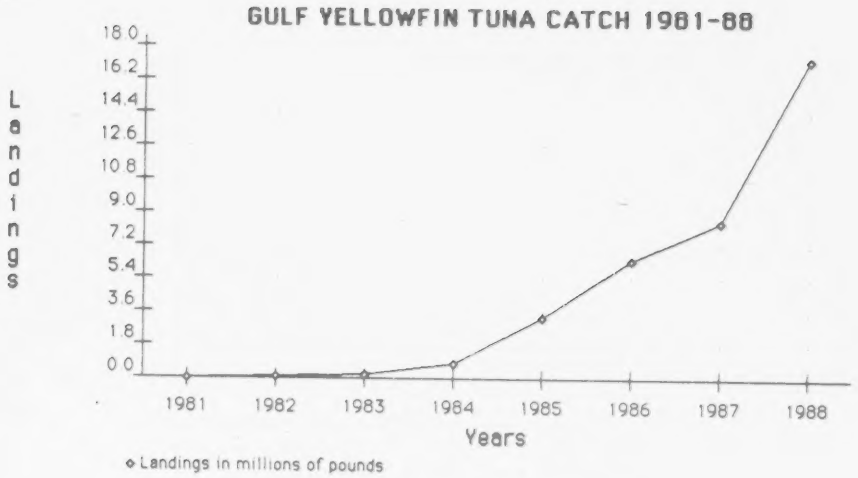
members involved would make policy, rather than requiring the unanimous consent of all Councils, a process which permits a single Council/region to thwart the will of the majority and delay action.

Summary

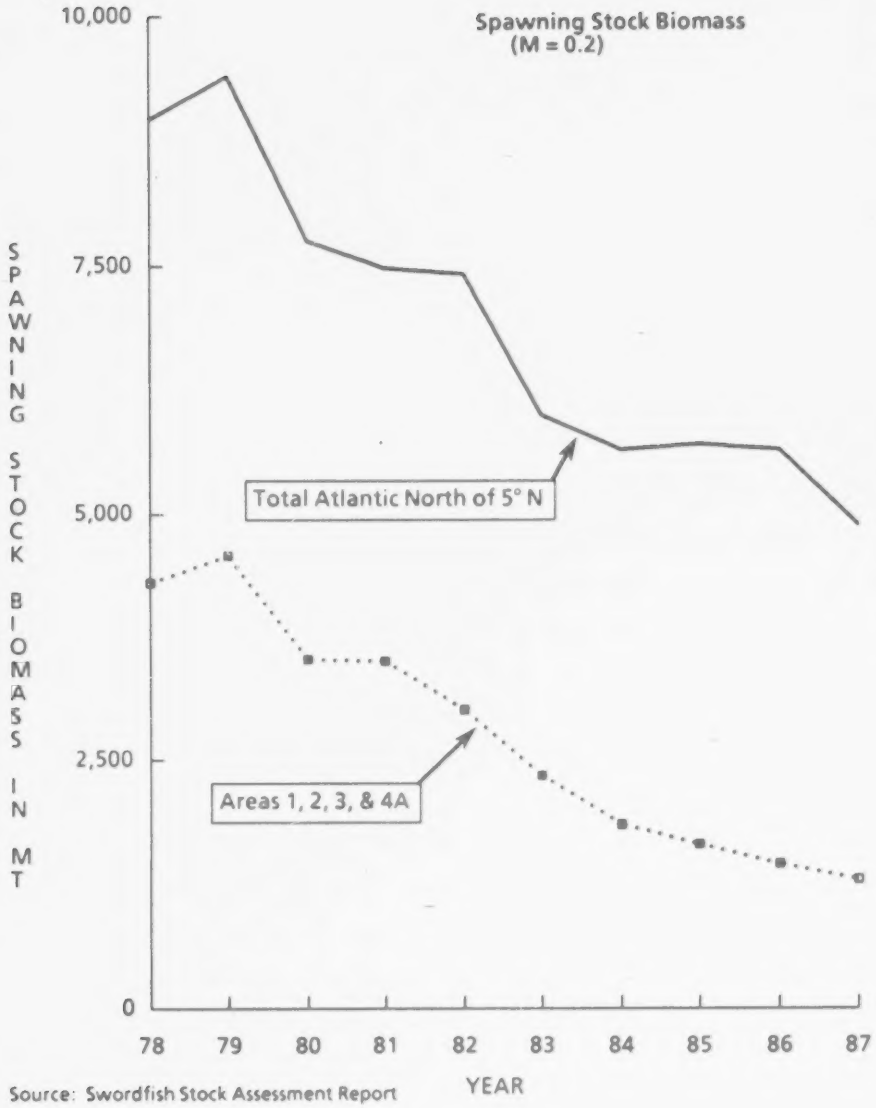
The Magnuson Fishery Conservation and Management Act's tuna exemption has inhibited past efforts to manage tuna, swordfish and billfish stocks, and jeopardizes future conservation efforts for these species, as well as for sharks. The Atlantic bluefin tuna and the Atlantic swordfish are severely overfished. Consigning sole responsibility for the conservation of tunas to international management has failed. The severe restraints placed on domestic management by exempting tuna fishing has thwarted efforts to conserve other pelagic species.

The National Coalition for Marine Conservation recommends the repeal of Section 102 of the MFCMA in order to extend US management authority to all species of fish found within our EEZ, without exception. We encourage continued US participation in ICCAT, which we believe will be enhanced through the inclusion of tuna under the US jurisdiction, through reauthorization of the Atlantic Tunas Convention Act. We suggest appropriate changes in these laws to improve coordination between US and international efforts to conserve highly migratory species.

Appendix A

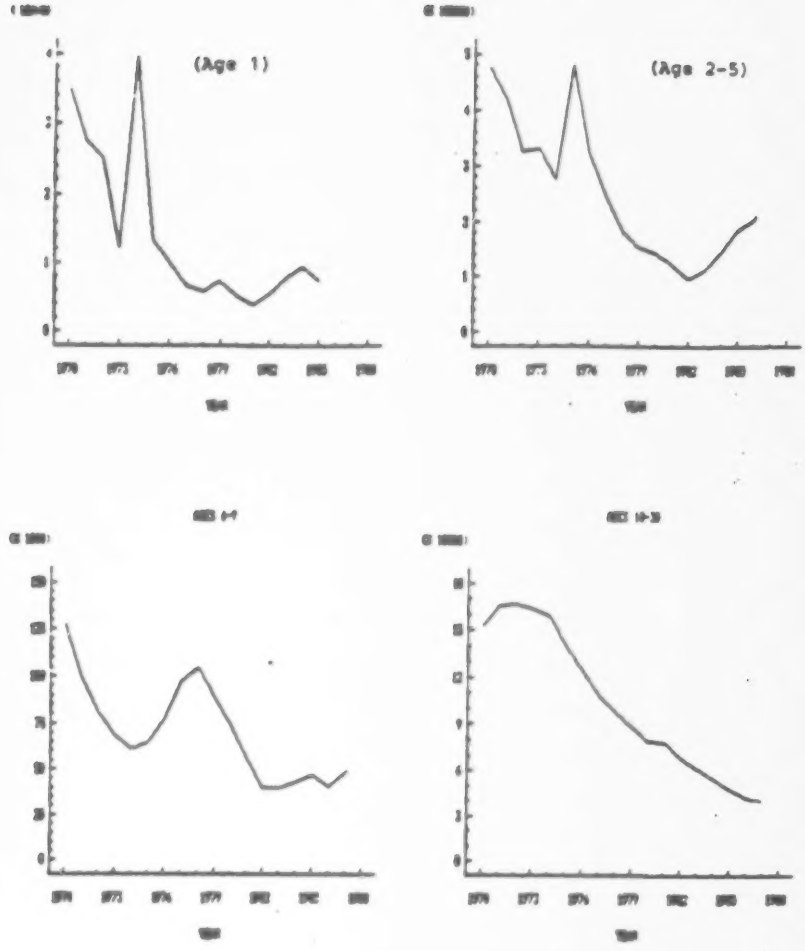

GULF YELLOWFIN TUNA CATCH 1981-88
Landings
18.0
16.2
14.4
12.6
10.8
9.0
7.2
5.4
3.6
1.8
0.0
1981
1982
1983
1984
1985
1986
1987
1988
Years
◇ Landings in millions of pounds

Appendix B



Source: Swordfish Stock Assessment Report

Appendix C



Stock size estimates of west Atlantic bluefin estimated by VPA.

Appendix D

CONSERVATION COMMENTS "Marlin" Magazine Jan.'89

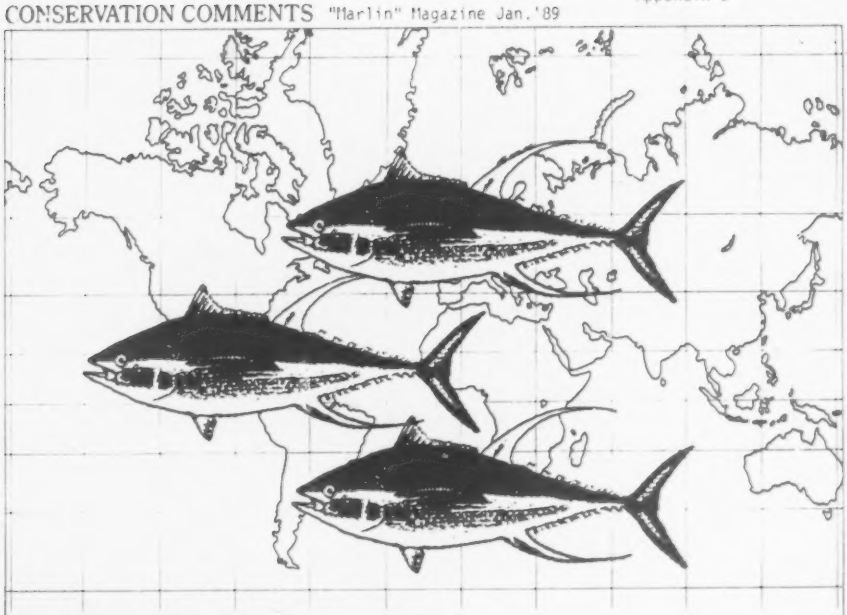


Chart by Sinbad Traders Inc

The Myths and Realities of Tuna Management

By Jim Rizzuto

The fates of billfish and tunas seem bound together as tightly as the longline setup of a commercial fishing vessel. Fishing methods for tuna catch marlin. Commercial tuna regulations affect the availability of recreational big game of both kinds. At times, both seem to be pawns in international political games whose strategies trade tuna for television sets and billfish for bolonga.

At the heart of international issues is the view that tuna are "highly migratory" species, making them citizens of the world and, therefore, subject to the jurisdiction of no one coastal state.

The "highly migratory" species basis has been challenged in some quarters. The Australian government has been persuaded that the tuna off its eastern coast remain largely within the Australian economic zone and has acted to regulate the fishery as a domestic population.

The South Pacific Commission (SPC), an organization formed to aid the economic development of island states and based in Noumea, New Caledonia, has questioned whether tuna are as migratory as many countries have stated. SPC scientists published a paper analyzing the data and reaching some conclusions that have challenged past assumptions. The SPC paper is controversial and was criticized by James Joseph, Director of the Inter-American Tropical Tuna Commission, at the International Billfish Symposium in Kona for ignoring or misinterpreting some of the information. On the other hand, James McHugh of the Mid-Atlantic Fishery Management Council reminded the symposium audience that the U.S. is the only nation not regulating tuna in its Exclusive Economic Zone, (EEZ) — a fact that suggests the widespread acceptance that "citizens without a country" can be regulated when they are in your country.

This article describes the SPC study of tuna movements and outlines some of

Continued on page 110

CONSERVATION COMMENTS

Continued from page 112

the factors to consider in managing yellowfin and skipjack tuna.

Is the "highly migratory" basis for tuna management schemes merely a myth? Major tuna movements seem to remain *within* the individual exclusive economic zones of countries with large coastlines. Populations of aku and ahi generally *aren't* shared by several countries. Those are the conclusions of a study by Ray Hilbourn and John Sibert for the SPC, published in 1986. If true, the results have major implications for managing skipjack and yellowfin tuna.

> The question is: "Are the tunas really as migratory as many countries believe they are?"

"Long distance movements" of yellowfin and skipjack "may be the exception rather than the rule for these species," says the SPC report. Therefore, "for countries with large economic zones, stocks may be considered resident."

The implications of considering tuna stocks to be resident are enormous, with far-reaching international consequences.

For example, if the U.S. says tuna within our EEZ live their lives within waters we control, then we have the right to tell foreign boats they can't come into "our" waters and catch "our" tuna. They, of course, can say the same thing to us about encroaching on "their" territory and taking "their" fish.

There is a flip side, however.

If skipjack and yellowfin tuna aren't international travelers, then "international cooperation in regulating harvests is not required for these two species, particularly where economic zones are large," says the SPC report.

"Under current economic conditions," the SPC report maintains, "under-regulated fisheries will not overexploit skipjack tuna and will not seriously overexploit yellowfin tuna."

Is that good news or bad news?

It's both.

If true, we needn't worry about our "resident" tuna populations declining because they are being seriously overfished elsewhere.

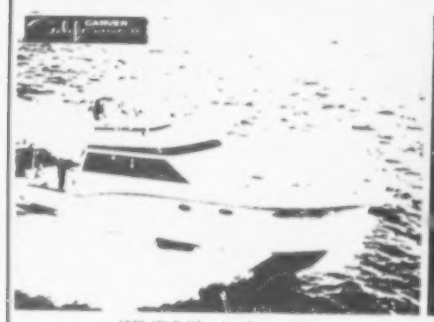
But we do have to worry about overfishing it ourselves. It may mean we can't pound our tuna schools into extinction and then count on having them replenished by new waves of migratory fish from far beyond our EEZ borders.

The SPC points to severe declines in the tuna fishery of the Phillipines as an example.

The Phillipines fishery is "based on the use of payaos or fish aggregation devices (FADs)" and may be a case of "serious overexploitation" because "intense local fishing pressure induced a drastic decline in the average size of fish."

We have FADs here in Hawaii and they are fished intensively for yellowfin and skipjack over extended periods. What's more, the fish taken from around our FADs are young recruits, small tuna weighing just a few pounds. The long-term impact on our tuna fishery worries many local fishermen, biologists and conservationists.

Furthermore, if "skipjack and yellowfin are much less migratory than many other commercially important non-tuna species," as the SPC report says, why should current U.S laws treat them as



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such?

The Fisheries Conservation and Management Act of 1976, which established the U.S. 200 mile EEZ, says coastal nations don't have jurisdiction over the many different species of tuna. As a result, management is to be by international agreements. In reality, that means tuna are free to be pawns in international games of chess between governmental agencies with priorities other than stewardship of resources.

Billfish, though also classified as highly migratory, are treated differently out of respect for special interest groups. Sport fishermen, for example, have succeeded in limiting foreign longlining in areas where big game fishing is big business. In a recent major move toward halting commercial exploitation of billfish, states along the Atlantic seaboard have banned the sale of billfish and limited the number that can be kept even by sport fishermen. Billfish bycatch of tuna fishing operations, however, continues as a so-far unavoidable consequence of allowing fishing for tuna.

The differences between the way billfish and tuna are treated legally caused the SPC to comment, somewhat wryly, "the exemption of billfish from the U.S. law [the Magnuson Act] makes it clear that there is no biological basis for U.S. tuna policy."

What's the evidence that yellowfin and skipjack aren't "highly migratory"?

The SPC examined studies of tag recoveries from tuna in the Western Pacific and in the Atlantic. They found that "about 85 percent of the skipjack tuna recoveries occurred in the country of their release." Similar plots of yellowfin tuna migrations showed that "tagged fish moved very little."

The evidence, according to the SPC report, says "international catch regulations for skipjack and yellowfin are probably not required, and almost certainly not for countries with large EEZs under current conditions."

It also points to three reasons why nations should assess and manage their tuna resources.

- Countries "permitting substantial industrial scale fishing within their EEZ" need to find out how much can be caught without affecting other important types of fishing.
- The Phillipines experience and the increasing use of FADs around the world "suggest that many countries may develop local fisheries capable of potentially overexploiting their own stocks."
- A "substantial change in price or *major* technical innovation" could affect what the SPC sees as the "current bioeconomic equilibrium."

> The Australians, meanwhile, have acted to regulate their tuna fishery as a domestic population.

The SPC report called for: (1) substantial tagging and comparative analysis of catch statistics between countries, (2) international cooperation in the analysis of data drawn from fisheries in trouble, and (3) a well-established catch monitoring system to detect overexploitation before it becomes severe.

"Every effort should be made to ensure that data collection, monitoring and research programs are in place now to monitor these fisheries as they develop," said the SPC, in a warning now two years old. ■

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TESTIMONY OF REBECCA L. PHILLIPS

MEMBER OF THE SOUTH ATLANTIC FISHERY MANAGEMENT
SWORDFISH ADVISORY COMMITTEE

MEMBER OF THE ADVISORY COMMITTEE TO ICCAT

ON THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT
ACT

BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE
ON MERCHANT MARINE AND FISHERIES

JULY 20, 1989 10:30 A.M.

My name is Becky Phillips and I live in Pompano Beach, Florida. I am here today representing Merritt Seafood and approximately 65 swordfish/tuna longline vessels. I am a member of the South Atlantic Fishery Management Council Swordfish Advisory Committe and a member of the Advisory Committee to the U.S. delegation to ICCAT. I have spent the past 20 years dealing with both the recreational and commercial sector of the marine industry, and I feel that I have a knowledgeable understanding of both groups.

Amendment of the Magnuson Fishery Conservation and Management Act (MFCMA) to include tuna should be cautiously considered and predicated by the past performance of the regional management councils relative to large pelagics. Two examples illustrate the difficulty of managing a highly migratory pelagic stock of fish by regional management council system restricted to 200 miles; swordfish and billfish.

Perhaps we, in the industry, were a little naive when it came to the working procedures of the councils. We provided, on a voluntary basis, one of the best data bases ever maintained by a fishing industry. We provided not only catch records, but produced highly guarded log books so that when decisions were to be made for management, the decisions would be made in a responsible manner. However the final out come, the industry would agree to accept management, as needed, provided that the resource displayed the need to be managed; that all user groups, on the same stock of fish, shared in that management regime; and the management measures would have the needed recovery effects on the stock of fish.

The first Swordfish Management Plan that was sent forward for approval offered a variable season closure which, if approved, would deter the American fisherman from fishing a stock of fish that was openly fished by a foreign fishery. The plan was rejected and put on hold while the councils directed their efforts toward the present Billfish Plan. Who could deny the Billfish Plan in theory? Whether commercial or recreational, the beauty of watching a billfish charge the bait, leap, and challenge the fisherman is understood by all.

So the industry agreed to almost every phase of the Billfish Plan until reality set in. The effort to regulate billfish domestically resulted in a basic reservation of certain fish for an exclusive purpose, recreational use and not conservation of the resource. Contained within this plan are two council provisions unsupported by MFCMA: extention of council authority beyond 200 miles and prohibition of imports. The problems become self-evident when discussing domestic management of an international, wide ranging pelagic resource that extends well beyond the EEZ.

The ICCAT scientist, working on a very tight schedule, were unable to conclude if they were dealing with a one-stock or two-stock theory, as mentioned in the Second ICCAT Swordfish Report, September 1988.

> " The Workshop favored the single-stock hypothesis for the North Atlantic as a working hypothesis for stock management purpose. However, the Workshop also felt that the two-stock hypothesis (i.e. East and West Atlantic), could not be discarded. Should the two-stock hypothesis be used in any assessment work, the signigicant mixing of the East and West fish should be incorporated into the analysis. Due to the shortage of time, it was not possible for the Workshop to provide an assessment of the status of the two-stocks."

The councils elected to set management tactics based on the two-stock theory proposing severe cutbacks of 68% which will, admittedly, have little effect on the preservation of the stock. This drastic measure, using the quota offered by the councils, will effectively eliminate all U.S. directed swordfishing and force those fishermen into a directed tuna fishery. Meanwhile, wide ranging foreign fleets would continue to commercially harvest fish on the high seas outside the U.S. EEZ. These foreign catches necessitate import restrictions prohibiting the sale of fish from the effected management unit or stock. It then becomes an intractable enforcement problem to verify the area of capture from foreign vessels or all catches offered for import.

Another area to be considered with such drastic management measures will be the U.S. flagged vessels forced into foreign ownership and joint ventures and again, these fleets will continue to fish the same stock contained within the management unit of 30° W longitude and 5° N latitude.

In bringing the proposed Swordfish Plan and the present Billfish Plan to light in my testimoney, I hope to parallel the possible scenario of the councils attempt to manage another large pelagic, tuna, were it brought under the MFCMA. The very nature of the pelagic swordfish, like tuna, suggests wide area movement. Those nations (i.e. Spain, Japan, Taiwan and Brazil) that fish for substance; to provide employment; supply the markets, both here and abroad will continue to harvest fish from the same stock, be it tuna or sword. The industry believes that if management measures are necessary on these large pelagics it should be managed by an international forum by all user groups having prepared a compiled data base.

It is the understanding of the industry that area councils should have a good cross section of both recreational and commercial representation. Such is not the case. The appointment process should be under the gun to insure all user groups proper representation and defined guidelines on management. To apply the same management measures that have worked on coastal fisheries will not work with the larger pelagics without having a large economic impact on the U.S. fisherman and major gain to the foreign fleets.

When considering your decision on tuna, gentlemen, please bear in mind the full ramifications of bringing another large pelagic under the MFCMA to be managed in the above mentioned manner. We should intensify our commitment and effort to negotiate international multilateral control in an international forum, such as ICCAT. Without use of the international forum where all user countries know and understand the need to preserve the resource, management simply will not work. If U.S. vessels are forced to foreign registries by restrictive coast wise regulations and rendered uncompetitive with subsidized foreign fleets, our current control and influence over these fisheries would be lost.

Thank you for your time.

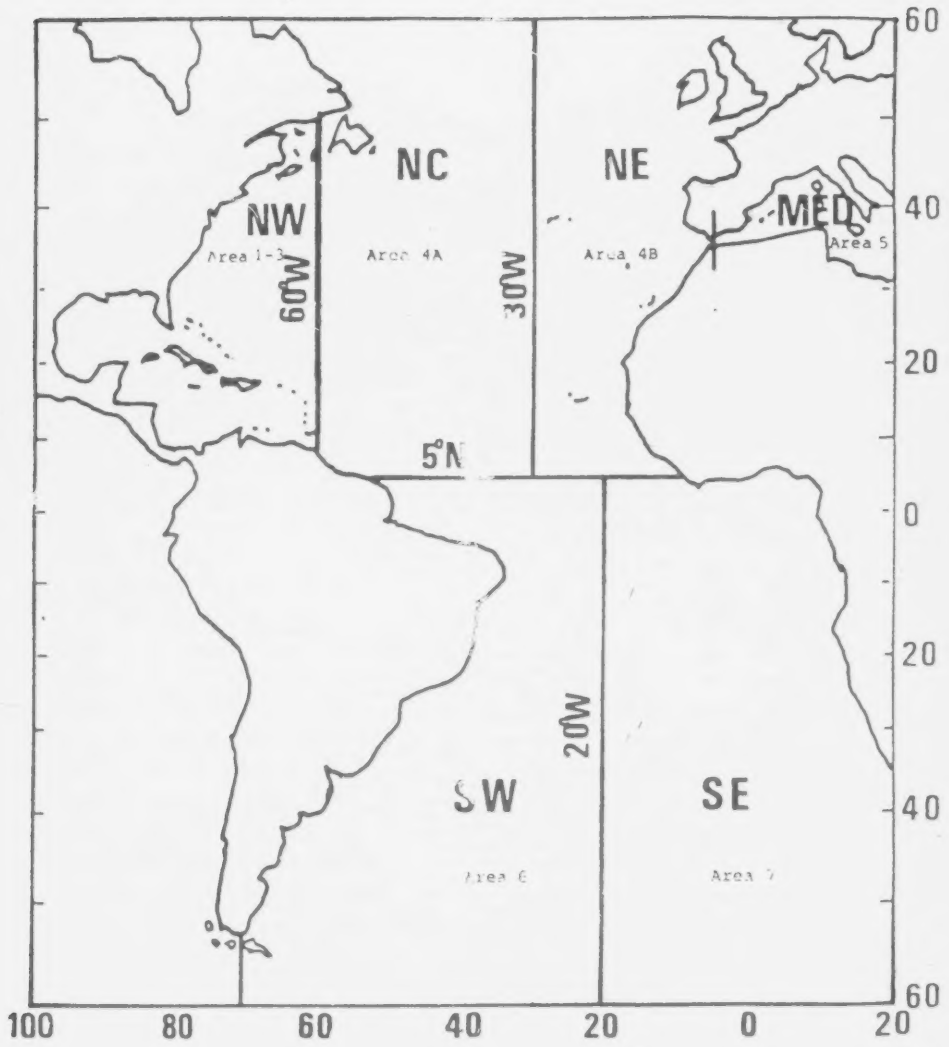


Figure 1. Six areas agreed upon by the ICCAT Workshop for data preparation.

Appendix I

INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS

COMMISSION INTERNATIONALE POUR LA CONSERVATION DES THONIDES DE L'ATLANTIQUE

COMISION INTERNACIONAL PARA LA CONSERVACION DEL ATUN ATLANTICO

COM-SCRS/88/12

SECOND ICCAT SWORDFISH WORKSHOP
(Madrid, September 6-13, 1988)

Introduction

This second ICCAT Swordfish Workshop represents the third workshop on Atlantic swordfish. The first meeting, sponsored by the U.S. National Marine Fisheries Service, was held April 16-26, 1986, at the Miami Laboratory of NMFS. Emphasis of the group was primarily on the assembly of historical statistical and biological information for the northwest Atlantic zone; an area bounded by 10°N latitude in the south and west of 35°W longitude. The Workshop considered the fish taken in this area to consist of a separate northwest Atlantic stock. However, the possibility of a single Atlantic-wide stock was not excluded. The Workshop concluded that the removals by fishing exceeded stock production during the period 1978 to 1980 and that after that period annual removals were less than stock production, with a resulting increase in biomass. Yield-per-recruit calculations indicated that harvest efficiency could be improved if the fishing effort could be shifted to the larger sizes.

The Miami Workshop report was reviewed by the 1986 ICCAT SCRS Meeting in Madrid. They noted that implementation of previous SCRS recommendations had improved greatly the quality of data on swordfish and that analytical assessment of the Atlantic stock(s) should be considered. They recommended that a workshop be held prior to the 1987 SCRS meeting to provide this assessment.

Accordingly, ICCAT held its first workshop on October 6-13, 1987, in Madrid, Spain. It was recognized that fishing for swordfish by U.S. and Spanish longline fleets had been moving offshore in recent years and that an international workshop was the appropriate forum in which to assemble the statistical information on swordfish effort and catch, by area (see Figure 1), to examine stock structure and to assess the status of stock(s) in the Atlantic. The Mediterranean areas were also considered as it was recognized that there might be an exchange of fish between the Atlantic and Mediterranean areas. The Workshop favored the single stock hypothesis for the North Atlantic as a working hypothesis for stock management purposes. However, the Workshop also felt that the two-stock hypothesis (i.e., east and west Atlantic) could not be discarded. Should the two-stock hypothesis be used in any assessment work, the significant mixing of east and west fish should be incorporated into the analysis. Due to a shortage of time, it was not possible for the Workshop to provide an assessment of the status of stocks.

STATEMENT OF

STEVE MORETON, PRESIDENT

EAST COAST TUNA ASSOCIATION

ON THE

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

BEFORE

THE SUBCOMMITTEE ON FISHERIES

AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

JULY 20, 1989

Mr. Chairman, my name is Steve Moreton, I am the President of M & M Tackle Company in Hyannis, Massachusetts. M & M Tackle Company is a manufacturer and distributor of fishing tackle for the off-shore pelagic fisheries.

I am testifying today as the President of the East Coast Tuna Association (ECTA). The Association is a non-profit organization of U.S. citizens and companies involved in all aspects of the Atlantic tuna fishery - fishermen, processors, and members of allied supportive industries committed to promoting sound management of Atlantic tuna and protecting fishermen's access to the resource.

The East Coast Tuna Association is actively involved in funding independent research projects intended to enhance the conservation and management of the Atlantic tuna fishery. This year, ECTA initiated a logbook data gathering program for bluefin tuna handliners, harpooners and rod and reel fishermen. We also are planning to sponsor an additional port sampler for the National Marine Fisheries Service catch and effort data collection program for the Atlantic pelagic fisheries.

The conservation and management of the bluefin tuna resource is of extreme interest to our organization. Eventhough our membership covers a wide diversity of fishermen and companies in the industry from general permit fishermen to purse seiners to dealers from Maine to Florida, there is complete agreement that

the International Convention for the Conservation of Atlantic Tuna's (ICCAT) is the appropriate management authority for bluefin tuna.

The ICCAT has been involved in Atlantic bluefin tuna management since 1974. In 1981 and 1982, ICCAT reduced fishing effort for bluefin tuna to minimum levels of harvest, established size limitations and ended the directed fishery in the Gulf of Mexico. The ECTA is in full support of these ICCAT management restrictions which still are in effect today.

These management measures are beginning to pay off. The 1988 ICCAT report confirmed that the recruitment and survival of young fish (1-5 years) has improved substantially as a result of the quotas established in 1982. The 1988 analysis shows estimates of abundance of each of the ages 1-5 in 1985 are the highest since 1978 and well above the lows of 1981 and 1982. Preliminary values for 1986 and 1987 are even higher.

The 1988 ICCAT report also shows that the decline of middle-sized fish (6-9 years) has been stopped and minor increases in the abundance have been reported. Until the 1982 and more recent year classes enter the spawning stock, the abundance of large fish (10-30 years) will continue to show a decline. This was included in the 1988 ICCAT report which, as a result, recommended that fishing mortality be maintained at its current reduced levels.

The current level of fishing effort for Atlantic bluefin tuna is limited to a quota of 2,660 metric tons. This annual quota is divided between the U.S., Japan, and Canada as follows: 1,387.3 mt for the U.S., 699.4 mt for Japan, and 573.3 for Canada. The U.S. quota is further divided by NMFS into permit categories for the purse seine fishery, harpoon fishery, rod and reel fishery, handline fishery and incidental longline catch.

The point which we wish to emphasize is that the fishing effort and mortality is limited by the bluefin quota. Fishing within permit categories is shut down as the quota in each fishery is reached. This year, the harpoon fishery was very successful with the quota filled much earlier in the season than it had been in the past. The purse seine fishery has always been successful in catching its quota as well. The harvest levels in the general permit category for the rod and reel and handline fishery depend on the behavioral and feeding activity of bluefin. Environmental changes such as water temperature alone can have a major impact on the location of bluefin and availability to this fishery. The fact that the general permit category is filled one year and not the next is not a valid index of abundance.

Regarding the foreign catch, the Canadian and Japanese fishery harvested their ICCAT quota in 1988. The Japanese longline fishery takes place in the Northwest Atlantic during the Fall and Winter targeting on medium fish, not the giants. In fact, the Japanese catch is used as the principal index of

abundance for bluefin that are 3-9 years old.

At this time, we see no evidence that we are facing a conservation crisis. Fishing effort is reduced by a quota well below historical levels, foreign fishing in the Gulf of Mexico spawning area has been stopped, and the status of the younger year classes is improving. The obvious conclusion is that ICCAT's management strategy is working.

The East Coast Tuna Association strongly urges Congress not to alter the international management framework for Atlantic bluefin tuna. Management of highly migratory species like bluefin must remain under the jurisdiction of ICCAT. ICCAT provides the only forum for international cooperation needed to manage bluefin tuna over the entire range of the stock.

The ICCAT management structure also has provided for a balance in the participation of all user groups. Traditionally, one of the U.S. ICCAT Commissioners has come from the commercial tuna fishery, one from the recreational fishery, and one from the federal government. We would encourage Congress to consider requiring this balanced composition for future U.S. Commissioners in ICCAT reauthorization legislation.

The U.S. ICCAT Advisory Panel also is made up of a fair balance of recreational and commercial interests. The same can not be said of the Fishery Management Councils. Furthermore, the Regional Fishery Management Councils are members of the Advisory

Panel and attend and participate in the ICCAT meetings abroad as part of the U.S. delegation. We see no reason in changing a management system that has jurisdiction over the entire range of the stock and provides for the full participation of the National Marine Fisheries Service, state fishery agencies, regional councils and all user groups.

The ECTA can not support an amendment to the Magnuson Fishery Conservation and Management Act to include tuna within its jurisdiction. Under the current management system, NMFS has authority to implement ICCAT management measures for bluefin tuna. There is no compelling conservation or management rationale for new legislative authority to regulate the bluefin tuna fishery.

Mr. Chairman, thank you for the opportunity to express the views of the East Coast Tuna Association. I would be happy to answer any questions or provide additional information to assist the Committee on this issue.

STATEMENT

OF

MICHAEL SACCO
PRESIDENT

SEAFARERS INTERNATIONAL UNION
OF NORTH AMERICA, AFL-CIO

BEFORE THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION

AND THE ENVIRONMENT

U.S. HOUSE REPRESENTATIVES

WASHINGTON, D.C.

JULY 20, 1989

Mr. Chairman:

My name is Michael Sacco. I am president of the Seafarers International Union of North America, AFL-CIO. Today, I am speaking on behalf of one of our affiliates, the Fishermen's Union of America, Pacific and Caribbean Area. I appreciate this opportunity to comment on the reauthorization of the Magnuson Fishery Conservation and Management Act.

For over a dozen years, the Magnuson Act has served to protect and promote all fisheries of the United States. Section 103 of the Act codifies a tuna policy backed by the Federal Government and the commercial tuna fishing industry since the 1940's, a policy that has worked very well.

Consequently, the Fisherman's Union supports reauthorization of the Magnuson Act, but strongly opposes any change in its provisions relating to tuna. There has been no change in the commercial tuna fisheries of the U.S. to warrant such a change, nor to our knowledge is it sought by the industry. On the contrary, a change of existing tuna management policy would cause substantial harm, rather than benefit, the California tuna industry.

The present tuna policy of the Magnuson Act has made it possible for our government to negotiate a highly regarded treaty establishing tuna fishing access arrangements in the

western Pacific with 16 Pacific island countries. We believe the maintenance of such tuna policy provisions in the Act is critical to the future of the U.S. tuna industry in the negotiation of tuna treaties with countries off Latin America.

More importantly, the existing tuna policy of the United States as reflected in the Magnuson Act has been working successfully in making tuna conservation a reality in the Atlantic and in the eastern Pacific fisheries for over 20 years. Thus we have seen the participation of the United States in the tuna conservation commissions known as the Inter-American Tropical Tuna Commission (IATTC) and the International Commission for the Conservation of the Atlantic Tunas (ICCAT).

Mr. Chairman, tuna is a migratory fish. Our fishermen need to be able to pursue tuna unhindered where they might best be found. Placement of tuna under the protections of the Magnuson Act would have the effect of inviting protectionist retaliation from other countries, resulting in an adverse impact on our own industry.

I might add that this is an industry that cannot withstand much more adversity. For many years, it has suffered from unfair foreign trade practices in the form of dumping, subsidized fleets and sub-standard wage and working conditions. Over 12,000 jobs were lost when imports of water-packed canned tuna shut down canneries in San Diego and San Pedro.

Nonetheless, the industry has responded vigorously by investing millions of dollars in new equipment and techniques to improve tuna harvesting and processing, increase yields and cut costs. Tuna landings in 1987 in California represented about 18 percent of volume and 35 percent of value for all state fisheries. We believe 1988 will surpass 1987. Clearly, tuna remains a vitally important component of our state and national economy; more important, I would suggest, than that represented by the recreational fishing interests that seek a Section 103 change.

Our feelings toward contemplated changes in the Magnuson Act can be summed up in one sentence: "If it ain't broke, don't fix it." The Fishermen's Union of America urges you to resist any change pertaining to tuna policy.

TESTIMONY OF THE HONORABLE ENI F.H. FALEOMAVAEGA
DELEGATE FROM AMERICAN SAMOA TO THE
UNITED STATES CONGRESS
before the
HOUSE MERCHANT MARINE & FISHERIES SUBCOMMITTE ON
FISHERIES & WILDLIFE CONSERVATION & THE ENVIRONMENT

July 20, 1989

Mr. Chairman, I want to take this opportunity to express my appreciation for the opportunity to testify here today regarding a possible amendment to Section 103 of the Magnuson Fisheries Conservation and Management Act and re-authorization of the Atlantic Tuna Conventions Act.

Earlier this year, the United States tuna industry faced a tremendous challenge when the Administration introduced several amendments to the Caribbean Basin Initiative Act that would have significantly eroded the diminishing competitive posture of the American tuna canneries located in Samoa and Puerto Rico. On this particular issue, the tuna industry, and my office were unanimous in our opposition to what was clearly a major threat to the economic survival of America's only tuna canning industries located in Samoa and Puerto Rico.

The issue we face today is not as clearly defined. This is evidenced by the opposing views held by certain territorial leaders and the tuna canneries operating in Samoa and Puerto Rico. This Committee will hear considerable testimony presented by our distinguished witnesses and like our

distinguished Chairman, I am planning to listen to arguments from federal agencies, the tuna fishing industry and community leaders.

In my attempt to examine the impact of this complex and emotional issue, I have had to review not only the economic aspects but also the political ramifications of the issue at hand. It is political in that the resources of the Pacific Ocean are shared by all the island countries and territories in the Asia-Pacific region. Until recently, the United States has treated the sovereignty of the Pacific island countries in a somewhat cavalier manner, unbecoming of this great Nation of ours. Prior to the signing of the South Pacific Tuna Act of 1988, the United States had taken the position that the Exclusive Economic Zones (EEZ) do not apply to tuna, since it is considered a highly migratory species of fish. As a result, American tuna fishing boats were perceived as repeatedly violating the rights of several Pacific island governments by conducting purse-seining fishing operations within their EEZ's. As a result, U.S. purse-seiners were seized and fined. Our government responded by imposing provisions of the Magnuson Act which authorizes an embargo against the island country which seized the vessel. This inevitably worsened U.S. relations with the traditionally pro-Western Pacific island countries. The passage by Congress

of the South Pacific Tuna Act on July 8, 1988 was seen as a positive step in improving and revitalizing relations with our Pacific island neighbors.

However, I am also very concerned that a change in the long-standing U.S. juridical policy on the highly migratory nature of tuna may result in doing harm to the canned tuna industry in American Samoa. As you know, our tuna industry is the most important component of Samoa's private sector economy. It is the largest private-sector employer in the territory and our leading export product to the United States.

The rationale behind the exclusion of tuna in the Magnuson Fisheries Conservation and Management Act was because they are a highly migratory species that some say could only be managed internationally. This U.S. position was an important cornerstone to the negotiations of the U.S. South Pacific Tuna Treaty. This treaty allows U.S. vessels access to approximately 10 million square miles of valuable and potential tuna fishing grounds. American tuna fishermen are now able to take advantage of this prime fishing area and then deliver their catch to Samoa's canneries, thereby making Samoa an indirect beneficiary of this regional treaty. It is possible that if the U.S. were to assert authority management over tuna, the outcome could be a significant weakening of

this treaty and other international management regimes would be damaged as well.

As I stated in the beginning, this is a complex issue whose outcome could have a significant effect on the welfare of the people of American Samoa and I strongly suggest that we proceed with caution. It is my sincere hope that before any decision is made, a thorough study of the possible impact this could have on Samoa's overall economy, and just as important, the formulation of appropriate United States foreign policies relative to fisheries and related issues, be conducted.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

JUL 03 1989 RECEIVED
JUL
UNITED STATES
TUNA FOUNDATION

Mr. David G. Burney
United States Tuna Foundation
1101 17th Street N.W., Suite 609
Washington, D.C. 20036

Dear David,

Thank you for your letter regarding foreign tuna longline vessels fishing in the U.S. exclusive economic zone (EEZ).

Foreign tuna longline vessels that may incidentally take species managed under fishery management plans must have fishing permits and are subject to the appropriate provisions of the foreign fishing regulations issued under the Magnuson Fishery Conservation and Management Act. All foreign fishing vessels except cargo transport vessels are required to have an observer on board before fishing operations in the EEZ may begin.

You requested the number of foreign tuna vessels that operated in the EEZ from 1985 through 1988, the number of fishing days by each vessel in the EEZ, and the total catch of tuna by each vessel. The answers to the questions on effort and catch are being provided to you in aggregate amounts because the data have been compiled and stored in that format. The information provided is for the Atlantic area and the only nation involved is Japan. Our records indicate that Japan, Korea and Taiwan received permits for their tuna longline fleets in the tropical Pacific; however, according to our regional office, there were no foreign fishing operations in that area.

Some countries, such as Canada, Australia and New Zealand, have developed plans to manage access to some portions of their tuna and billfish fisheries in response to developing domestic and foreign commercial fisheries. These plans govern domestic and foreign tuna longline fleets and are considered by these countries to be comprehensive.

I have enclosed a set of tables to show the catches by species by foreign tuna vessels, and the associated foreign effort from 1985 through 1988.

If I may be of further assistance to you, please let me know.

Sincerely,

James W. Brennan
Assistant Administrator
for Fisheries

Enclosure

The following tables describe the Japanese tuna longline fleet effort in the Atlantic:

1985

Vessel Days on Grounds: 595
Number of Tuna Longliners: 7

Species	Catch (mt)
Bluefin	846.1
Bigeye	251.7
Yellowfin	49.4
Albacore	217.3

1986

Vessel Days on Grounds: 436
Number of Tuna Longliners: 6

Species	Catch (mt)
Bluefin	184.4
Bigeye	451.1
Yellowfin	129.4
Skip Jack	0.3
Albacore	69.0
Atlantic Bonito	1.3

1987

Vessel Days on Grounds: 537
Number of Tuna Longliner : 8

Species	Catch (mt)
Bluefin	318.8
Bigeye	217.0
Yellowfin	127.2
Skip Jack	98.7
Albacore	69.0
Atlantic Bonito	0.2

1988

Vessel Days on Grounds: 300
Number of Tuna Longliners: 9

Species	Catch (mt)
Bluefin	387.8
Bigeye	28.1
Yellowfin	11.5
Skip Jack	0.0
Albacore	64.4
Atlantic Bonito	0.0

TABLE I

COMMERCIAL LANDINGS OF TUNA BY U.S. FLAG VESSELS
BY DISTANCE CAUGHT OFF U.S. SHORES AND IN INTERNATIONAL WATERS

YEAR	DISTANCE CAUGHT OFF USA 0 to 3 (000 lbs.)	3 to 200 (000 lbs.)	INTERNATIONAL WATERS (000 lbs.)
1979	672	27,570	479,910
1978	531	49,419	515,741
1977	376	36,464	432,055
1976	757	36,642	622,453*
1975	295	64,023	503,931
1974	498	61,376	489,319
1973	1,150*	43,730	470,703
1972	1,020	66,612*	456,743
1971	663	55,825	291,552
avg.	662	avg. 49,073	avg. 473,601
prior 1976 avg.	725	avg. 58,313	avg. 442,450
1988	677	46,934	561,713
1987	648	32,152	593,444
1986	589	32,366	522,060
1985	741	31,783	483,613
1984	741	33,957	548,221
1983	305	23,208	562,477
1982	523	23,322	415,590
1981	601	34,927	454,350
1980	357	24,735	474,946
avg.	576	avg. 31,487	avg. 512,935
Since 1984	679	avg. 35,438	avg. 541,810

SOURCE: FISHERIES OF THE UNITED STATES, 1971-1988

* HIGHEST CATCH

ANALYSIS OF TABLE 1.

- During the nine year period 1971-1979, the average annual catch of tuna in international waters by the U.S. Tuna Fleet was 474 million pounds (237,000 tons).

- During the nine year period 1980-1988, the average annual catch of tuna in international waters by the U.S. Tuna Fleet was about 513 million pounds (256,500 tons).

- Since the passage of the MFCMA in 1976, the average annual catch of tuna in international waters by the U.S. Tuna Fleet has been about 513 million pounds (256,500 tons).

- During the period 1971-1975, the average annual catch was about 442 million pounds (221,000 tons).

- During the nine year period 1971-1979, the average annual catch of tuna caught off the USA in the zone of 3 to 200 miles by the U.S. Tuna Fleet was about 49 million pounds (24,500 tons).

- During the nine year period 1980-1988, the average annual catch of tuna caught off the USA in the zone of 3 to 200 miles by the U.S. Tuna Fleet was about 32 million pounds (16,000 tons).

- Since the passage of the MFCMA in 1976, the average annual catch of tuna caught off the USA in the zone of 3 to 200 miles by the U.S. Tuna Fleet has been about 33 million pounds (16,500 tons).

  However, during the five year period 1971-1975, the average annual catch was about 58 million pounds (29,000 tons).

CONCLUSIONS BASED UPON TABLE 1.

1. Statistical evidence compiled by the U.S. Department of Commerce (NMFS) since 1971, establishes that the USA is a distance-water tuna fishing country and not a coastal-water tuna fishing country.

- It should be noted that the USA has the largest 200 mile zone in the World.

2. Since the enactment of the MFCMA in 1976, the catch of tuna in waters beyond the 200 mile zone of the USA by the U.S. Tuna Fleet has increased.

- A comparison of the nine year period 1971-1979 with the nine year period 1980-1988 shows an increase for the latter period from an annual average of about 474 million pounds to about 513 million pounds. This represents an increase of over eight percent (8%).

3. Since the enactment of the MFCMA in 1976, the average annual catch of tuna within the 200 zone of the USA by the U.S. Tuna Fleet has declined.

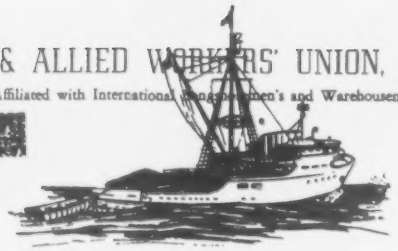
- A comparison of the nine year period 1971-1979 with the nine year period 1980-1988 shows a decrease for the latter period from an annual average of about 49 million pounds to about 31 million pounds or a decline of 38 percent.

4. For the past five years (1984-1988), the average annual catch of tunas within the 200 mile zone of the USA and in waters beyond such zone have increased for the U.S. Tuna Fleet.

- Within the 200 mile zone, from about 31 million pounds to about 36 million pounds.

- Outside the 200 mile zone, from about 513 million pounds to 542 million pounds.

FISHERMEN & ALLIED WORKERS' UNION, LOCAL 33 I.L.W.U.
Affiliated with International Longshoremen's and Warehousemen's Union



SAN PEDRO, CA 90731 OFFICE: 150 WEST 7TH STREET, SUITE 105, PHONE: (213) 833-1393

July 6, 1989

The Honorable Gerry E. Studds
House Office Building
Washington, D.C. 20515

RE: Reauthorization: Magnuson Fishery Conservation and Management Act (MFCMA)

Dear Congressman Studds:

This is to request your support of the California Tuna Industry by opposing any amendment to the Magnuson Fishery Conservation and Management Act (MFCMA) as it relates to tuna.

The MFCMA, which was enacted in 1976 to protect and promote all fisheries of the United States, is presently under review by the House Merchant Marine and Fisheries Committee. A bill has been introduced to reauthorize the funding of the existing statute. We support such re-authorization but strongly oppose any change in the provisions of the MFCMA as it relates to tuna.

The tuna policy as established by the MFCMA has been the position of our Government and the commercial tuna fishing industry for over forty (40) years. We want no change in the law; we are asking you to retain the status quo of the Magnuson Act as it relates to tuna.

The canned tuna industry of the United States was created in 1903 when a fish canner in San Pedro, California, experimented with tuna caught off the Southern California coast. This fishery has had its problems, particularly from foreign imports of canned tuna before and after World War II. In recent years, the industry has lost over 12,000 jobs when imports of canned tuna packed in water caused the shut down of tuna canneries in San Pedro and San Diego. Nevertheless, tuna landings in California during 1987 represented about 18 percent in volume and 35 percent in value for all California fisheries. We believe the 1988 tuna statistics will be more favorable than 1987. The tuna fishery in California remains important to the economy of the State and our Country.

Nothing has changed in the commercial tuna fisheries of the United States to justify any change in the tuna provisions of the MFCMA. We have no knowledge of any effort in the commercial fishing industry to seek a change. It is our view that a change of existing tuna management policy would cause substantial harm rather than benefit the California Tuna Industry.

Essentially, the present tuna policy of the MFCMA has made it possible for our Government to negotiate a highly regarded treaty establishing tuna fishing access arrangements in the Western Pacific with sixteen (16) Pacific Island countries. We believe the maintenance of such tuna policy provisions in the MFCMA is critical to the future of the U.S. Tuna Industry in the negotiation of tuna treaties with countries off Latin America.

More importantly, the existing tuna policy of the United States as reflected in the MFCMA has been working successfully in making tuna conservation a reality in the Atlantic and in the Eastern Pacific fisheries for over twenty (20) years. We refer to the participation of the United States in the tuna conservation Commissions known as the Inter-American Tropical Tuna Commission (IATTC) and the International Commission for the Conservation of the Atlantic Tunas (ICCAT).

We urge your action in advising the House Merchant Marine and Fisheries Committee to support the existing tuna policy in the MFCMA and to reject efforts to legislate changes in such law pertaining to tuna.

Thank you.

Sincerely,

FISHERMEN & ALLIED WORKERS' UNION
LOCAL 33, I.L.W.U.

John J. Royal
Executive Secretary-Treasurer

JJR:a

Working for the Nature of Tomorrow

NATIONAL WILDLIFE FEDERATION

1400 Sixteenth Street, N.W. Washington, D.C. 20036-2266 (202) 797-6800

August 28, 1989

The Honorable Gerry E. Studds
Chairman
Subcommittee on Fisheries and Wildlife Conservation and the Environment
Committee on Merchant Marine and Fisheries
U.S. House of Representatives
237 Cannon House Office Building
Washington, DC 20510

Dear Chairman Studds:

The National Wildlife Federation (NWF) respectfully requests that the following comments be made part of the record for the July 20, 1989 Subcommittee hearings on highly migratory fish species management under the Magnuson Fishery Conservation and Management Act (MFCMA; P.L. 94-265) and the Atlantic Tunas Convention Act (ATCA; P.L. 94-265, § 405). These comments supplement the statement of Lynn A. Greenwalt submitted for your hearing of May 2, 1989, in which we supported both the reauthorization of the MFCMA and amending the MFCMA to allow for tuna management.

The NWF is the nation's largest, not-for-profit, conservation-education organization with 5.8 million members and supporters throughout the U.S. and in 51 state- and territory-wide organizations which include about 4,500 local conservation organizations. The NWF consistently supports use of our nation's marine fisheries resources when that use is based on sound science and informed management.

The NWF joins five Regional Fishery Management Councils (New England, Mid-Atlantic, South Atlantic, Gulf of Mexico and Western Pacific) and other conservation organizations in calling for repeal of Section 102 of the MFCMA, which excludes tuna from MFCMA-management. If tuna stocks and other highly migratory marine species inhabiting the offshore waters of the U.S. are to be properly conserved and managed for the benefit of the nation, the U.S. must act unilaterally to regulate the use of these resources within its Exclusive Economic Zone (EEZ). The Council fishery management plan system, in conjunction with continued U.S. participation in the International Commission for the Conservation of Atlantic Tunas (ICCAT), and other international bodies, appears to offer the best means for assuring the long-term conservation of tuna.

The NWF, however, remains concerned about: (1) the failure of existing international tuna management arrangements, specifically ICCAT, in protecting Atlantic bluefin tuna stocks from overharvest and stock decline, (2) the lack of any international tuna conservation efforts throughout the central, eastern and western Pacific Ocean, and (3) the inability of the Regional Councils to effectively protect and manage other highly migratory marine species, such as swordfish, billfish and sharks, as a result of the current U.S. tuna policy.

The Importance of Tuna to the U.S.

Prior to passage of the MFCMA in 1976, the principal tuna fisheries in which the U.S. participated were in international waters. While the greatest percentage of tuna caught by the U.S. fleet today still occurs outside its EEZ, a significant coastal fishery for tuna within the U.S. EEZ now exists. The last decade has seen an exponential rise in the domestic commercial fisheries in the U.S. EEZ. For example, in the southeastern U.S. (South Atlantic and Gulf of Mexico) alone the tuna catch has increased seven-fold since 1980, and the yellowfin tuna catch in this area has gone from less than 0.2 million pounds in 1980 to 8.8 million pounds in 1987[1,2]. It is estimated there are almost 9,000 U.S. commercial vessels that fish for tuna, either full or part-time, in the U.S. EEZ. These vessels landed an average of almost 30 million pounds of tuna worth over $60 million at ex-vessel prices per year between 1982 and 1986[3].

In addition to the commercial fleet, there is also a large and rapidly expanding recreational fishery for tuna and related species. Although reliable estimates are lacking as to the proportion of the 72 million fishing trips taken each year by marine recreational anglers in the U.S. involving tuna fishing, it is estimated that direct recreational expenditures related to tuna fishing in the U.S. EEZ exceed $260 million annually[4]. In fact, nearly half of the large pelagic species targeted by North

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[1]Linda Hudgins, "Structural Change and the Economic Case for Inclusion of Tuna Under the Magnuson Act: Prosperity and Value in U.S. Coastal Fisheries." Papers in Public Policy No. C-15. Economics Department, University of Notre Dame, Indiana. 58p.

[2]NMFS/NOAA Tuna Newsletter #90, August 1988.

[3]Hudgins, p. 12.

[4]Hudgins, p. 26.

Carolina anglers in 1987 were tunas[5] and one third of the charter boats in southern California reported catching tuna in 1985[6].

Clearly, tuna is an extremely important commercial and recreational living marine resource contributing significantly to the economic and social well-being of the nation. However, international management arrangements are failing to provide for sufficient conservation of these resources. Therefore, if the U.S. is to protect this resource adequately, it must take immediate action to conserve the tuna resources off its coasts.

Current U.S. Tuna Policy

Currently, tuna is the only marine fishery within the coastal waters of the U.S. that does not fall under the jurisdiction of the U.S. government. Only recently has the U.S. recognized--albeit implicitly by its participation in the South Pacific Tuna Treaty--the jurisdictional claims of other coastal nations over tuna within their EEZs. The rationale for this tuna policy is, in part, based on the premise that tuna is such a highly migratory fish, traversing thousands of miles during its lifetime that it does not reside within the juridical boundaries of any one coastal nation. Consequently, it is our policy that no one nation can claim exclusive sovereign rights over tuna or, for that matter, effectively manage and conserve tuna stocks independently.

From a biological perspective, the best way to conserve tuna stocks is to manage each stock as an unit throughout its entire migratory range The drafters of the Third United Nations Convention on th Law of the Sea (UNCLOS III) recognized the validity of this approach when they encouraged its signatories to participate in, or establish, international organizations promoting conservation and optimum utilization of highly migratory species. While UNCLOS III stresses the importance of international cooperation in managing these species throughout their entire range, it does not preclude nations from also establishing their own management strategies to regulate these same species in their EEZs. In fact, the NWF submits that the most successful conservation and management strategy for highly migratory species is one that blends both vigorous international

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[5]John R. Maiolo, "Profiles of Recreational Billfishermen: Implications for Management," cited in Michael K. Orbach and John R. Maiolo, "United States Tuna Policy: A Critical Review." Report to the South Atlantic Fishery Management Council under Technical Assistance, Contract #SA-80-02-SSA (e3), Amendment #7, 1988. 29p.

[6]U.S. Department of Commerce cited in Hudgins p. 33.

cooperation by all involved fishing nations with that of individual regulatory approaches framed by each nation.

International Tuna Organizations Fail to Conserve Tuna

To date, the U.S. has relied almost exclusively on international arrangements to conserve and manage tuna resources, both outside and within the U.S. EEZ. Realistically, however, international management of any transboundary marine resource, be it marine mammal, northwest Atlantic groundfish, or tuna, has proven highly problematic and largely unsuccessful. There are currently only two international organizations with responsibility for the scientific study and management of tuna resources. These are the Inter-American Tropical Tuna Commission (IATTC), whose mandate covers the eastern Pacific Ocean, and ICCAT, whose mandate covers the entire Atlantic Ocean and Mediterranean Sea. Both organizations share the primary objective of conserving tuna stocks to achieve and maintain sustainable yields.

While IATTC was initially established and run primarily as an international tuna management arrangement until 1979, the inability of its member nations to reach a consensus on a management system has precluded IATTC from achieving its goals. Consequently, IATTC is no longer an international tuna regulatory body but rather an international tuna scientific commission. This has left the eastern Pacific, along with its neighboring regions of the central and western Pacific, without a tuna management regime since 1979.

The result is that much of the tuna fishery in the Pacific Ocean is unregulated. Without a management safety net, its continued viability is in jeopardy. Although the abundance of some tuna stocks, particularly yellowfin tuna, remain high and catches good, fishing effort on these stocks in the eastern Pacific is increasing. If yellowfin stocks are to be maintained at high levels, a management plan to control the expanding fishing effort will be necessary. Preventive measures to avoid overfishing of these stocks should be taken now, both internationally and at the national level, rather than waiting for the stocks to be overfished and seriously depleted. The U.S. could play an important role in facilitating this process by redefining and implementing a tuna conservation and management regime of its own, while, at the same time, revitalizing its role in international tuna conservation efforts.

Unlike IATTC, ICCAT continues to attempt to manage the international tuna resources of the Atlantic Ocean. ICCAT is comprised of 22 member nations, each bringing to the Commission their own biological, economic, social and political concerns about tuna conservation and management. Since ICCAT depends on the voluntary participation and compliance of its member nations,

recommended conservation measures will reflect what is acceptable to all nations active in the fishery. If any recommended measure is not acceptable to a member nation, as a result of their biological, economic, social or political concerns, that nation may file a formal objection, exempting it from having to abide by the conservation measure. In order for the conservation measure to be effective, however, it is essential that all member nations unanimously agree to abide by the measure. Therefore, in reaching a consensus on conservation measures, ICCAT consistently yields to the will of the "lowest common denominator", whether it be to the benefit or the detriment of the resource.

The Atlantic Bluefin Tuna Stocks are Severely Overfished and are Reaching Dangerously Low Levels

Unfortunately, ICCAT's actions historically have been detrimental to those resources that require protection the most. The present status of the Atlantic bluefin tuna, particularly the western stock, is a classic example of the damage that can be done to a fishery when economic and political considerations of member nations outweigh the overall conservation goals of the international organization. In 1982, the National Marine Fisheries Service circulated a final Environmental Impact Statement and Regulatory Impact Review for the United States Atlantic Bluefin Tuna Fishery which included the following statement:

> Since the early 1970's the reports of the Commission's (ICCAT) Standing Committee of Research and Statistics (SRCS) have highlighted disturbing trends regarding Atlantic bluefin tuna stocks. The Commission was informed in 1970 and 1971 of the very sharp decline in catches of large bluefin and the substantial quantities of very small bluefin being caught. In subsequent years, the SCRS noted the decreasing numbers of large fish throughout the Atlantic, the continuing absence of medium size fish, and the increasing average size of large fish[7].

Recognizing the deteriorating condition of the bluefin tuna fishery, ICCAT declared a "moratorium" on fishing in the western Atlantic in 1981. During the "moratorium" there was an allowable harvest of 800 metric tons for stock monitoring purposes. Economic pressure and international political considerations subsequently and steadily raised the monitoring allocation, first to 1,160 metric tons in 1981 and then to 2,660 metric tons in 1982. This annual allocation has remained at 2,660 metric tons

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[7]Cited from "The Inter-Council Position Paper on Amendments to Section 102 of the Magnuson Conservation and Management Act," June 1989. p. 8.

since 1982 and is distributed between the U.S., Canada, and Japan. The U.S. quota alone accounts for 52% of the total allocation.

While this harvest continues, the western Atlantic stock of bluefin tuna continues to decline alarmingly. In 1988, ICCAT's SRCS determined that 1987 western Atlantic adult stocks of bluefin tuna (ages 10 - 30) were approximately 30% of the 1970 stocks; ages 6 - 9 approximately 40%; and ages 1 - 5 (for 1985) approximately 31%. The ICCAT data also show a decline in catch by age class[8]. Of the three nations fishing in the western Atlantic, only Japan has fulfilled its quota of 699.4 metric tons. For the last two years, despite 25,000 licensed fishing vessels at sea, the U.S. has taken only 70% of its alloted quota. This confirms that the fish are simply not there to be caught.

Clearly, the Commission has not fulfilled its primary objective under the ICCAT treaty of recommending measures for maintaining tuna stocks at levels that can support maximum yields on a sustained basis. Rather, the Commission has elected to maximize current yields for the short-term gain of a few nations. If the U.S. is truly interested in ensuring the survival and perpetuation of its western Atlantic tuna fishery, it must take steps <u>now</u> to include tuna under the MFCMA. Not only would inclusion of tuna under MFCMA allow the U.S. to become much more active and play a more aggressive role in protecting the tuna resources off it's coast, but it would also enable the U.S. to strengthen and enhance important data collection programs significantly. These efforts would, in turn, result in a substantially expanded international data base, and enable ICCAT and other international tuna organizations to base their conservation and allocation decisions on more comprehensive and accurate information.

The U.S. Must Squarely Address the Issue of Incidental By-Catch of Swordfish and Other Migratory Species by Tuna Long-liners

One of the most serious flaws of U.S. tuna policy is that it hamstrings the Regional Management Councils' ability to conserve populations of other highly migratory species, such as billfish, swordfish and shark. The problem lies in the fact that while these other species occupy the same ecological niche as tuna and are often caught by the same gear type and by the same fishermen, they have been <u>included</u> under the regulatory regime of the MFCMA; while tuna <u>has not</u>. Thus, a major shortcoming of the U.S. tuna

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[8]Cited from "The Inter-Council Position Paper on Amendments to the Magnuson Fishery Conservation and Management Act," June 1989. p. 9.

policy is that it interferes with and severely inhibits our nation's efforts to conserve other highly migratory fish.

Since 1980, the five East and Gulf coast Councils have attempted to develop separate Fishery Management Plans (FMPs) for billfish and swordfish. The major obstacle faced by the Councils in developing and implementing these FMPs is that the management tools they intend to use to conserve and manage billfish and swordfish must not interfere with the tuna fishing activities of domestic and foreign fishermen. By virtue of their shared habitats and the type of fishing gear, highly migratory species such as billfish, swordfish and tuna, are inextricably linked. A large percentage of the U.S. fleet uses longlines to target tuna, particularly yellowfin. Because longlines are not selective, they result in catches of several different large pelagic species other than tuna, such as billfish, swordfish.

Since tuna fishing in the U.S. EEZ is largely unregulated, comprehensive projections of the amount of billfish and swordfish caught incidentally by U.S. and foreign tuna longliners are lacking. Nonetheless, as the number and effort of domestic longline tuna fishermen continue to increases, so too will the amount of incidental bycatch. The uncertainty surrounding the magnitude and impact of this bycatch is especially worrisome when the survival of a fishery is already being threatened--as is the case of swordfish.

On April 20-21, 1989, a panel of marine biologists expert in the field of large pelagics led by Dr. William Fox of the University of Miami reviewed a swordfish stock assessment report developed by the NOAA Southeast Fisheries Center. Based on the findings of the report, this panel unanimously agreed the entire northern Atlantic stocks of swordfish are seriously stressed. In part, the review panel concluded:

> Spawning stock biomass has declined continuously since 1979 and is currently about 40% of the 1978 level. The current rate of fishing mortality will cause a continued decline in the spawning stock, placing the stock in increased jeopardy of recruitment failure (p.2).

Because this assessment is based on 1987 data, the panel considers it "overly optimistic," noting that heavy fishing pressure was maintained throughout 1988 and into 1989, depleting the stock even more. The panel, thus, recommended a management goal of rebuilding the spawning stock to a safe level within five years. To do that they state would require <u>at least</u> a 78% reduction in catch throughout the northwest Atlantic fishery. When a fishery is this close to collapse, all catch, be it directed or not, must be accounted for and stringently regulated.

Swordfish, too, is an important commercial and recreational fishery, and the U.S. is committed to the species' conservation and management through the FMP process. If this FMP is to be effective, however, the U.S. must account for all factors affecting the fishery and aggressively regulate those factors within its authority to control--such as incidental bycatch. In order to accomplish this, however, the U.S. must change its tuna policy. Until the U.S. alters this policy, incidental bycatch of swordfish and other nationally-important highly migratory species will continue to go unchecked, rendering current attempts to manage and conserve these fisheries totally ineffective.

Conclusion

Those who argue against the inclusion of tuna under MFCMA contend: (1)its inclusion is neither consistent with international law nor current U.S. fishery policy, (2)tuna stocks are already adequately protected through international tuna arrangements and national regulation would only undercut these efforts, and (3)current tuna policy does not seriously inhibit the Regional Councils' ability to conserve and manage billfish and swordfish. These arguments clearly are insupportable. International law, as codified by UNCLOS III, in no way precludes nations from managing highly migratory species within their own EEZs. It merely urges nations to cooperate at an international level to conserve these resources. Nor do the actions of other nations claiming jurisdiction over highly migratory species suggest that a change in the U.S. tuna policy would be unacceptable international practice.

The fact that the U.S. claims sovereign rights over all highly migratory species with the exception of tuna is internally inconsistent and self-defeating. Tuna stocks, particularly those of the western Atlantic bluefin tuna, have not been adequately conserved, but rather are heading for stock collapse. National conservation efforts and commitment by the U.S. to re-write its tuna policy can only strengthen international tuna arrangements, such as ICCAT. In doing so, the U.S. would be able to provide much needed data as well as send a powerful message to the international community at large that the U.S. is serious about tuna conservation. There is no denying that the current U.S. tuna policy has been, and remains to be, the major impediment to the successful development and implementation of the Regional Councils' billfish and swordfish FMPs.

The National Wildlife Federation appreciates the opportunity to provide these comments.

Sincerely,

Steven N. Moyer

Steven N. Moyer
Legislative Representative-Fisheries
Fisheries and Wildlife Division

SNM:tlb

cc: Members of the Committee on Merchant Marine and Fisheries

TESTIMONY OF
THE HONORABLE GOVERNOR OF THE
TERRITORY OF AMERICAN SAMOA
PETER TALI COLEMAN
BEFORE THE
SENATE COMMITTEE ON
COMMERCE, SCIENCE AND TRANSPORTATION
AND THE NATIONAL OCEAN POLICY

JULY 20, 1989

I am pleased to have this opportunity to testify in favor of the inclusion of tuna under the Magnuson Fishery Conservation and Management Act.

My views on this issue are shaped by a lifetime spent as an islander seeking harmonious relationships with my fellow islanders among the Pacific community of nations. and by my concern for the Sea Resources we will leave for future generations in our region.

My three fellow governors of American-flag Pacific islands and I favor the inclusion of tuna under the Magnuson Act. We signed a resolution in March 1989, setting forth our position.

For me, the decisive factor was not the biological and economic evidence supporting the inclusion of tuna, rather the political events that are reshaping the Pacific basin with the force of a tidal wave. Most of our island neighbors are

independent nations, and tuna are among the most important natural resources that we have. All of these island nations claim and manage tuna within their exclusive economic zones. The management of tuna is indeed an international issue in my part of the world.

This Committee will hear considerable testimony today on the status of international tuna management in other areas. We are just beginning to see international agreements on tuna fishing rights in the central and western Pacific. The South Pacific Tuna Treaty has created goodwill in the region by setting up an umbrella agreement allowing the U.S. tuna fleet fishing rights in the exclusive economic zones of 13 independent island nations.

Prior to this treaty, relationships between the U.S.A. and many island nations had deteriorated badly over the tuna fishing issue. U.S. tuna boats were caught fishing without permits off some islands and were detained. The islands whose laws were broken sometimes found themselves being punished by the U.S.A. through trade embargoes.

All the goodwill the U. S. had stored because of our role in world War II was dissipating because of our position on tuna.

Despite the good beginning made by the South Pacific Tuna Treaty, fishery management on an international basis remains primitive in the central and western Pacific. Nearly all Pacific island nations have joined together in condemning the drift gill-

net fishing practices of Japanese, Korean and Taiwanese fleets. Only the Republic of Korea is beginning to cooperate in stopping this extremely destructive and wasteful fishery, which deploys thousands of miles of nets a day, creating an enormous "wall of death" on the high seas.

Long before the first westerners sighted our islands, we lived in intimate association with the sea. The limited land area and dependence on the ocean for food compel us to pay more attention than most people to our natural environment. Little wonder that our ancient traditions cautioned against overusing marine resources. The spirit of our ancient beliefs is not very different from that of the Magnuson Fishery Conservation and Management Act.

Our islands have accepted modern technology and have adopted many Western ways, but in some ways, we are more dependent than ever on the fishery resources of the Pacific Ocean. I refer in particular to large-scale tuna fisheries which have developed in the central and western Pacific. American Samoa is the home of two major tuna packers who purchase fish from the U.S. purse seiners and from foreign fleets. American Samoa is the main center of tuna processing in the world. Tuna canning is our largest private employer and most important industry.

American Samoa's dependence on tuna is precisely the reason

for my support of the inclusion of tuna under the Magnuson Act. We are long past the day when we could be sure that the ocean's natural resiliency would replenish fish populations. I want to be able to tell our children that tuna will continue to provide jobs and income, and only by including tuna under the Act can we properly assess stocks and forecast tuna conservation and management needs. The oceans are still a vast protein factory, but a reasonable analysis of this factory invokes an analogy to an automobile factory. The finished products which emerge from the assembly line can never exceed the sum total of the raw materials which are fed into the line at the beginning. It would be a poor auto factory manager who decreed that his plant would produce 1,000 cars per day while ordering enough steel to produce only 500. That's roughly the situation in which we might find ourselves if we continue to defy logic by refusing to make tuna subject to management and scientific study under the Magnuson Act. Including tuna will help us keep our promises to future generations that they, too, will receive the benefits that fishing for tuna brings.

Everyone agrees that international cooperation is needed to manage tuna effectively. The disagreement is over how best to achieve international cooperation. "The best bait for catching fish is what the fish usually eat." This argument can also be made for including tuna under the Magnuson Act. Virtually all other nations claim jurisdiction over tuna. By following suit,

the U.S.A. would signal other nations, particularly in the central and western Pacific, that we are using the right "bait" to gain their cooperation. For some reason, however, the tuna inclusion issue is often framed in an "either-or" context: either the Magnuson Act will be changed to support nation-by-nation jurisdiction, or it will continue to support international management of the resource. This could not be more wrong; the end is international tuna management, while the means to that end is nation-by-nation jurisdiction over tuna.

Thirteen Pacific island nations acting through a regional framework provided by the Forum Fisheries Agency have taken the first step toward multilateral management of tuna fishing in the central and western Pacific. All of these nations unilaterally manage tuna within their respective 200-mile extended economic zones. This did not prevent them from signing the South Pacific Tuna Treaty with the U.S.A. By executing this treaty, the U.S.A. has recognized these countries' unilateral claims to tuna, under a regional multilateral framework. Inclusion of tuna under the Magnuson Act is perfectly consistent with what the U.S. is <u>already</u> doing.

Inclusion of tuna in the Magnuson Act will not impede international management. In fact, it will smooth the way for international cooperation. With equal claims on tuna, we and our non-U S. neighbors will find it easier to iron out fishing access

agreements, share data bases and collaborate on stock assessment and forecasting.

We all know the old saying that a chain is only as strong as it's weakest link. The exclusion of tuna from the Magnuson Act is the weakest link in our country's fisheries policies for our part of the world. I urge this committee to correct this most serious problem.

Thank you , Mr. Chairman.

22-263 (160)